

*Velez - Davenport - 02/26/2020*

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12:13:44 1 they had to backfill cars with -- like our side  
12:13:47 2 would have been the training side, but because  
12:13:50 3 there was a manpower issue additional units were  
12:13:52 4 needed, so I was just given this call sign.

12:13:58 5 Q. How often --

12:13:58 6 A. To backfill.

12:13:58 7 Q. Oh, I'm sorry. How often do you have  
12:14:00 8 double-up days?

12:14:01 9 A. Every two weeks.

12:14:01 10 Q. Okay.

12:14:04 11 A. Once every two weeks.

12:14:05 12 Q. Do you receive training once every two  
12:14:08 13 weeks?

12:14:08 14 A. Sometimes we do, sometimes we don't.

12:14:11 15 Q. How often on double-up days do you  
12:14:16 16 receive training?

12:14:17 17 A. I don't recall.

12:14:19 18 Q. If you don't receive training, what  
12:14:22 19 else would you be doing?

12:14:23 20 A. We would backfill cars or fulfill a  
12:14:28 21 different assignment, whether it be work the desk,  
12:14:30 22 do a foot patrol.

12:14:37 23 Q. Okay. Now, it says patrol C4; do you

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12:14:45 1 see that?

12:14:45 2 A. Yes.

12:14:46 3 Q. What does C4 refer to?

12:14:49 4 A. The sector, Charlie District four  
12:14:55 5 sector.

12:14:55 6 Q. So C would refer to Charlie District?

12:14:58 7 A. Uh-huh.

12:14:59 8 Q. And then four is that's a smaller  
12:15:04 9 sector within Charlie?

12:15:04 10 A. Yes.

12:15:05 11 Q. Okay. Was that typically what you were  
12:15:08 12 assigned to was the fourth district within Charlie  
12:15:12 13 District?

12:15:12 14 MS. HUGGINS: Form.

12:15:12 15 BY MR. DAVENPORT:

12:15:12 16 Q. Or, I'm sorry, strike that.

12:15:13 17 Was that typically what you were assigned to  
12:15:17 18 was the fourth part of the Charlie District?

12:15:20 19 A. No.

12:15:21 20 Q. Okay. Where were you typically, what  
12:15:25 21 part were you typically assigned to?

12:15:27 22 A. The three sector.

12:15:29 23 Q. The three sector. Do you know why you

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12:15:31 1 were assigned to the four sector at that point?

12:15:36 2 A. There was a need for a four sector  
12:15:39 3 coverage that day.

12:15:44 4 Q. Who typically would be assigned to the  
12:15:47 5 fourth sector at this time?

12:15:50 6 A. I don't know.

12:15:54 7 Q. Did you typically work with  
12:15:57 8 Ms. McDermott?

12:15:57 9 A. Yes.

12:15:57 10 Q. Was she your partner at that time?

12:16:00 11 A. She and I rode together, yes.

12:16:04 12 Q. Did the two of you work the third  
12:16:06 13 sector together typically?

12:16:08 14 A. Yes.

12:16:11 15 Q. Okay. Are you and Ms. McDermott  
12:16:13 16 friends?

12:16:13 17 A. Yes.

12:16:14 18 Q. And that would be outside of work as  
12:16:16 19 well?

12:16:16 20 A. Yes.

12:16:17 21 Q. Do you guys hang out together?

12:16:19 22 A. Yes.

12:16:20 23 Q. What sort of things do you guys do

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12:16:24 1 together outside of work?

12:16:26 2 A. Driveways, seriously, we -- she helped  
12:16:30 3 me with my driveway. We'll have dinner. We'll  
12:16:38 4 visit each other's house.

12:16:41 5 Q. Now, do you have any children,  
12:16:45 6 Ms. Velez?

12:16:45 7 A. I do.

12:16:46 8 Q. Okay. Is Ms. McDermott a godmother or  
12:16:51 9 any other sort of title to your children?

12:16:55 10 A. No.

12:16:55 11 Q. How do your children refer to  
12:16:59 12 Ms. McDermott?

12:16:59 13 A. Ms. Lauren.

12:17:00 14 Q. Okay. Not aunt or anything like that?

12:17:04 15 A. No.

12:17:06 16 Q. Now, how was it conveyed to you that  
12:17:12 17 you and Ms. McDermott would be working the fourth  
12:17:14 18 sector rather than the third sector on January 1st  
12:17:18 19 of 2017?

12:17:18 20 A. I don't recall specifically, but in  
12:17:20 21 briefing we would be told, it's something that  
12:17:24 22 would be discussed in briefing.

12:17:25 23 Q. Okay. Now, we talked about an A wheel

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12:17:33 1 and a B wheel. What wheel were you working at the  
12:17:36 2 time, you and Ms. McDermott?

12:17:38 3 A. I -- I don't know which side would be  
12:17:41 4 labeled the A wheel and B wheel at the time.

12:17:44 5 Q. Okay. During your A wheel or B wheel,  
12:17:50 6 who would typically be working the fourth sector?

12:17:56 7 A. On our regular side?

12:17:58 8 Q. Yes, on your regular side.

12:18:00 9 A. I don't recall.

12:18:01 10 Q. Okay. Can you look, please, refer to  
12:18:05 11 Exhibit 16 again. I think it's your bottom sheet.

12:18:12 12 A. Okay.

12:18:12 13 Q. Looking through this list of officers,  
12:18:17 14 does that refresh your recollection as to who would  
12:18:19 15 have been working the fourth sector during your  
12:18:24 16 wheel?

12:18:24 17 A. No.

12:18:25 18 Q. Okay. So, now, turning back towards  
12:18:32 19 the dispatch monitor, which has been marked as  
12:18:35 20 Exhibit 25. Do you see how right before your name  
12:18:38 21 there is a six digit number?

12:18:41 22 A. Yes.

12:18:41 23 Q. What does that six digit number refer

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12:18:45 1 to?

12:18:45 2 A. My departmental ID.

12:18:48 3 Q. Okay. Has that departmental ID changed  
12:18:51 4 at any time?

12:18:51 5 A. No.

12:18:52 6 Q. So that was issued to you back in 2013?

12:18:55 7 A. Yes.

12:18:56 8 Q. And do you see next to shift where it  
12:19:00 9 says second?

12:19:00 10 A. Yes.

12:19:01 11 Q. What does that refer to?

12:19:03 12 A. That would be our day shift or MP2.

12:19:09 13 Q. What would be considered first shift?

12:19:12 14 A. I don't know the specific hours, but  
12:19:15 15 typically on patrol we have MP2, which is day  
12:19:21 16 shift, we have MP4, which is afternoon shift, we  
12:19:25 17 have MP5, which is the overnight.

12:19:29 18 Q. And between MP2 and MP4 what would that  
12:19:34 19 shift be considered?

12:19:37 20 MS. HUGGINS: Form.

12:19:38 21 BY MR. DAVENPORT:

12:19:39 22 Q. What would MP3 refer to?

12:19:41 23 A. MP3 is I believe what our community

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12:19:46 1 police officer shift is, it's 10 -- 10 a.m.

12:19:55 2 to -- 10 to 8, 10 to 8:00 p.m.

12:19:56 3 Q. What does a community officer do?

12:19:58 4 A. The community police officer they  
12:20:02 5 handle a -- a variety of the different issues that  
12:20:06 6 we may have that are not criminal, such as neighbor  
12:20:11 7 issues, loud noise, complaints of garbage.  
12:20:15 8 They -- they go to community events. They're kind  
12:20:18 9 of like the district liaison.

12:20:21 10 Q. How does somebody get assigned to be a  
12:20:24 11 community officer?

12:20:25 12 A. It could either be you put in a request  
12:20:29 13 to be the community police officer or it's the most  
12:20:33 14 junior officer in the district.

12:20:34 15 Q. Have you ever worked as a community  
12:20:37 16 officer before?

12:20:37 17 A. No.

12:20:40 18 Q. Now, you said that it could be the most  
12:20:44 19 junior officer in the district, would that just be  
12:20:48 20 somebody that was chosen from your academy class?

12:20:51 21 A. No, it's different. It's from the  
12:20:54 22 Charlie District. So whoever is the most junior  
12:20:57 23 who has the least amount of time in the whole

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12:21:00 1 district on all shifts that would be the person  
12:21:03 2 that would have to take that position, if nobody  
12:21:06 3 else wanted it.

12:21:06 4 Q. Okay. Now, what would MP1 refer to?

12:21:10 5 A. It's a shift. I'm -- I'm not even  
12:21:13 6 certain what the hours are for that shift. I've  
12:21:17 7 never worked MP1 or know of anyone who worked MP1.

12:21:22 8 Q. Would that individual also be a  
12:21:24 9 community officer?

12:21:25 10 A. I'm not certain. Like I said, I don't  
12:21:29 11 know who would be assigned to MP1 or what the  
12:21:32 12 department has it for.

12:21:33 13 Q. Okay. Now, according to your dispatch  
12:21:36 14 monitor, it says that your shift started at  
12:21:39 15 6:12 a.m. on January 1st of 2017?

12:21:41 16 A. Yes.

12:21:42 17 Q. Okay. Do you have any reason to  
12:21:44 18 dispute the accuracy of that?

12:21:46 19 A. Our -- excuse me. Our shift starts at  
12:21:49 20 0600 hours, that's just what time the MCTR shift  
12:21:54 21 started in the MCT. So whether -- it's our  
12:21:57 22 computer, so whether the lieutenant clicks start  
12:22:01 23 shift or the dispatcher logged our shift at that

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12:22:05 1 time.

12:22:05 2 Q. Now, it appears that the first time  
12:22:09 3 that you were dispatched was at 6:47 a.m.; is that  
12:22:13 4 correct?

12:22:13 5 A. Yes.

12:22:13 6 Q. Okay. And you were dispatched for an  
12:22:16 7 alarm at 2021 Genesee Street?

12:22:19 8 A. Yes.

12:22:20 9 Q. Okay. What would you typically be  
12:22:23 10 doing from the time that your shift started until  
12:22:25 11 the first time that you were dispatched?

12:22:29 12 A. Every day is different.

12:22:30 13 Q. Do you recall what you did on  
12:22:34 14 January 1st of 2017?

12:22:35 15 A. I do not.

12:22:38 16 Q. Do you recall this call for an alarm at  
12:22:44 17 2021 Genesee Street?

12:22:44 18 A. I do not.

12:22:45 19 Q. Do you know if it is a residential or a  
12:22:49 20 commercial building at 2021 Genesee Street?

12:22:51 21 A. I do not recall.

12:22:52 22 Q. Okay. Have you ever appeared for a  
12:22:54 23 call other than January 1st of 2017 at 2021 Genesee

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12:22:59 1 Street?

12:22:59 2 A. I don't recall.

12:23:00 3 Q. Okay. Now, the next entry says en  
12:23:05 4 route at 6:37 a.m., that would be referring to  
12:23:10 5 what?

12:23:14 6 A. That we were put on the call and we  
12:23:17 7 were en route to the alarm.

12:23:18 8 Q. And, now, when you say we, that's  
12:23:21 9 referring to you and Ms. McDermott?

12:23:22 10 A. Correct.

12:23:23 11 Q. Okay. Do you see how there's a number  
12:23:25 12 after en route 17-0010383?

12:23:29 13 A. Yes.

12:23:29 14 Q. What does that number refer to?

12:23:31 15 A. That's the incident number.

12:23:33 16 Q. Okay. Now, it says that you were  
12:23:41 17 available again at 7:02 a.m., correct?

12:23:44 18 A. Yes.

12:23:44 19 Q. Okay. Would that have meant that your  
12:23:50 20 response to the alarm situation at 2021  
12:23:54 21 Street -- or 2021 Genesee Street had at that point  
12:23:58 22 ended?

12:23:59 23 MS. HUGGINS: Form.

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12:24:01 1 THE WITNESS: That would -- would be the  
12:24:02 2 time that the dispatcher put us available.

12:24:06 3 BY MR. DAVENPORT:

12:24:06 4 Q. Okay. And how does a dispatcher make  
12:24:08 5 you available?

12:24:08 6 A. Either we can give a disposition and  
12:24:11 7 call ourself back or sometimes they do it on their  
12:24:15 8 own. They feel that we've had sufficient time and  
12:24:18 9 they put us back in.

12:24:21 10 Q. Has there ever been a time where a  
12:24:24 11 dispatcher has thought that you had a sufficient  
12:24:26 12 amount of time and you had to then radio in to say  
12:24:29 13 that you need more time at a certain incident  
12:24:32 14 location?

12:24:32 15 A. Yes.

12:24:33 16 Q. Okay. Did that happen on January 1st  
12:24:38 17 of 2017?

12:24:38 18 A. For -- do you want to clarify?

12:24:41 19 Q. For any of the calls.

12:24:43 20 A. For the incident with Mr. Kistner we  
12:24:49 21 did need more time. I don't know if a specific  
12:24:52 22 call was made out, but we were on it for an  
12:24:55 23 extended amount of time, but for the previous calls

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12:24:58 1 I don't recall.

12:24:58 2 Q. Do you recall how many times you had to  
12:25:00 3 radio in asking for more time with that incident?

12:25:03 4 A. No.

12:25:05 5 Q. Was it more than once?

12:25:06 6 A. I didn't radio in --

12:25:06 7 Q. Okay.

12:25:08 8 A. -- on that date.

12:25:08 9 Q. Who radioed in asking for more time?

12:25:12 10 A. I don't recall if they specifically  
12:25:12 11 asked for more time. Typically, we spend about on  
12:25:14 12 average 20 minutes on a call, that's like what the  
12:25:18 13 average time is.

12:25:19 14 If we need more time than that, we can ask  
12:25:22 15 for it. Or if we feel like we've been on a call  
12:25:23 16 for an extended amount of time, we'll let radio  
12:25:25 17 know, radio, I'm still on this call.

12:25:27 18 It's not that I've forgotten to give a  
12:25:30 19 disposition or I'm in trouble, I just need more  
12:25:31 20 time.

12:25:32 21 Q. Now, is that 20-minute average, is that  
12:25:34 22 for every sort of call or are there certain calls  
12:25:38 23 that, you know, it would be expected to spend

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12:25:40 1 longer at those types of incidents?

12:25:43 2 A. It can --

12:25:43 3 MS. HUGGINS: Form. You can answer.

12:25:44 4 THE WITNESS: It can vary. We just like to  
12:25:47 5 update radio at least every 20 minutes.

12:25:51 6 BY MR. DAVENPORT:

12:25:51 7 Q. Okay. Did you update radio every  
12:25:54 8 20 minutes at Mr. Kistner's incident?

12:25:57 9 A. I did not radio.

12:25:58 10 Q. Okay. Who was radioing at that time?

12:26:01 11 A. I don't recall everyone who radioed.

12:26:03 12 Q. Was Ms. McDermott radioing?

12:26:05 13 A. I recall her being on the radio.

12:26:07 14 Q. Okay. Would somebody from your car  
12:26:09 15 have to radio in to dispatch asking for more time?

12:26:13 16 MS. HUGGINS: Form.

12:26:14 17 THE WITNESS: We don't have to. We can  
12:26:17 18 radio from our car or our hand-held radio.

12:26:21 19 BY MR. DAVENPORT:

12:26:22 20 Q. Okay. But you and Ms. McDermott were  
12:26:25 21 traveling together that day, correct?

12:26:27 22 A. Correct.

12:26:27 23 Q. Okay. So would it only take one

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12:26:30 1 individual traveling within your car to radio back  
12:26:33 2 in to dispatch to let them know that you need more  
12:26:38 3 time on a call?

12:26:38 4 A. Pardon?

12:26:38 5 Q. Would it only take one individual,  
12:26:41 6 because you and Ms. McDermott were traveling  
12:26:44 7 together, would it only take one individual from  
12:26:46 8 your car that you and Ms. McDermott were traveling  
12:26:49 9 in together to radio back in to dispatch asking for  
12:26:49 10 more time?

12:26:49 11 A. Only one person can be on the radio at  
12:26:57 12 a time.

12:26:57 13 Q. From your car?

12:26:59 14 A. From either way or we'll step on each  
12:27:01 15 other, whether it's from the car or from our body  
12:27:03 16 radio, only one person can be on the air at a time,  
12:27:04 17 because it'll negate the other person trying to  
12:27:06 18 call.

12:27:07 19 Q. Now, is that for all the officers  
12:27:09 20 within C District?

12:27:10 21 A. And E District.

12:27:11 22 Q. Okay. So E District and C District  
12:27:15 23 both radio in to the same dispatcher?

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12:27:17 1 A. Yes.

12:27:18 2 Q. Are there any other districts within  
12:27:26 3 the City of Buffalo that radio in to that  
4 dispatcher.

5 THE REPORTER: You've got to slow down,  
6 please. Can you ask that question again, please.

7 BY MR. DAVENPORT:

8 Q. Are there any other districts within  
12:27:29 9 the City of Buffalo that radio in to the same  
12:27:29 10 dispatcher besides C and E District?

12:27:32 11 A. I believe B and D share a dispatcher.  
12:27:37 12 And A District shares dispatch with towing, parking  
12:27:44 13 enforcement, and I believe dog control. There may  
12:27:47 14 be more, but I'm not on that channel.

12:27:50 15 Q. Okay. Now, it appears that at  
12:27:57 16 7:09 a.m. you were dispatched to an overdose  
12:28:03 17 situation; do you see that?

12:28:04 18 A. Yes.

12:28:04 19 Q. And was that at 385 Paderewski Drive?

12:28:09 20 A. Yes.

12:28:10 21 Q. Okay. It appears that you were there  
12:28:14 22 for nearly an hour; do you see that?

12:28:16 23 A. Yes.

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12:28:17 1 Q. Okay. You were next made available at  
12:28:20 2 8:07 a.m.?

12:28:21 3 A. Yes.

12:28:24 4 Q. Would it show on this dispatch monitor  
12:28:27 5 if you had asked for additional time at a call?

12:28:32 6 A. I'm not certain if it would show on  
12:28:35 7 this.

12:28:35 8 Q. Okay. Would it show on the complaint  
12:28:37 9 summary report?

12:28:39 10 A. I'm not certain.

12:28:41 11 MS. HUGGINS: Form.

12:28:41 12 BY MR. DAVENPORT:

12:28:41 13 Q. Would it show on any forms that you're  
12:28:44 14 aware of?

12:28:45 15 A. Not that I'm aware of.

12:28:46 16 Q. Okay. Do you recall that overdose  
12:28:50 17 situation?

12:28:50 18 A. I do.

12:28:52 19 Q. Did the person die?

12:28:53 20 A. No.

12:28:54 21 Q. Do you know what they overdosed on?

12:28:57 22 A. No.

12:28:58 23 MS. HUGGINS: Form.

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12:28:58 1 BY MR. DAVENPORT:

12:29:00 2 Q. Was an ambulance called to that  
12:29:03 3 location?

12:29:03 4 MS. HUGGINS: Form. And I'm concerned about  
12:29:08 5 HIPAA in terms of questioning and with regard to  
12:29:13 6 any medical treatment that was or was not provided  
12:29:16 7 for that person. That person is not involved in  
12:29:19 8 this lawsuit.

12:29:20 9 MR. DAVENPORT: Sure. They're not involved,  
12:29:22 10 but Ms. Velez did respond to that situation. I  
12:29:23 11 want to know how she handled it.

12:29:25 12 MS. HUGGINS: I do think that an  
12:29:27 13 individual's medical treatment is covered under  
12:29:29 14 HIPAA, so I would object and instruct the officer  
12:29:32 15 not to answer questions that are specifically  
12:29:36 16 relating to medical treatment with relation to that  
12:29:39 17 call.

12:29:40 18 MR. DAVENPORT: I didn't ask about medical  
12:29:42 19 treatment. I just asked if an ambulance was called  
12:29:43 20 or not. If you want to say -- if you want to  
12:29:45 21 direct her to not answer that question, you can  
12:29:48 22 certainly say that for the record.

12:29:52 23 MS. HUGGINS: I think it gets very close to

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12:29:54 1 the line with HIPAA. What I'm going to instruct to  
12:30:12 2 the officer is you may answer that question  
12:30:15 3 specifically without going into any details of what  
12:30:20 4 medical treatment, if any, was requested or you  
12:30:23 5 observed for that individual.

12:30:24 6 BY MR. DAVENPORT:

12:30:25 7 Q. So my question is was an ambulance  
12:30:27 8 called for that situation?

12:30:28 9 A. I did not call an ambulance.

12:30:30 10 Q. Do you know if an ambulance was called  
12:30:31 11 by anybody else?

12:30:31 12 A. I know Buffalo fire and an ambulance  
12:30:33 13 did respond.

12:30:34 14 Q. Okay. Do you know if that ambulance  
12:30:40 15 was called by any police officers?

12:30:43 16 A. I don't recall.

12:30:45 17 Q. Was there anyone else there besides the  
12:30:48 18 individual who had overdosed?

12:30:52 19 MS. HUGGINS: Form. With the exception of  
12:30:54 20 fire and the ambulance that she's already  
12:30:56 21 discussed?

12:30:56 22 BY MR. DAVENPORT:

12:30:57 23 Q. Yes.

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12:30:58 1 Outside of emergency responding personnel,  
12:31:01 2 was there anybody else there besides the individual  
12:31:04 3 who had overdosed?

12:31:05 4 A. Yes.

12:31:06 5 Q. Any family members?

12:31:07 6 A. No.

12:31:07 7 Q. Okay. Any friends?

12:31:11 8 A. This was a warming center, there were  
12:31:15 9 numerous people there, strangers amongst strangers,  
12:31:19 10 some people may have been friendly. I'm not  
12:31:22 11 certain. There was a large number of people there.

12:31:24 12 Q. Okay. Are you aware of any of those  
12:31:29 13 friends calling for an ambulance?

12:31:30 14 A. I don't recall.

12:31:31 15 Q. Okay. Now, the next situation that we  
12:31:36 16 are looking at is at 8:42 a.m. It says dispatched  
12:31:45 17 for a transport; do you know what that's referring  
12:31:48 18 to?

12:31:50 19 A. I don't recall that call.

12:31:52 20 Q. Okay. What sorts of things would a  
12:31:55 21 transport refer to?

12:31:58 22 A. We could have assisted a citizen  
12:32:01 23 somewhere. It -- it could be a number of different

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12:32:04 1 things, I don't recall specifically what this  
12:32:06 2 transport is for.

12:32:07 3 Q. Okay. Now, would the police department  
12:32:15 4 transport an individual to a location if they don't  
12:32:18 5 have a car?

12:32:19 6 A. Depends.

12:32:20 7 Q. Okay. What sorts of situations would  
12:32:23 8 the police department transport an individual who  
12:32:26 9 doesn't have a vehicle?

12:32:27 10 A. Again --

12:32:28 11 MS. HUGGINS: Form. You may answer.

12:32:29 12 THE WITNESS: -- it can vary.

12:32:31 13 BY MR. DAVENPORT:

12:32:32 14 Q. Would there ever be an instance where  
12:32:34 15 somebody calls 911 asking for a police transport to  
12:32:39 16 a location?

12:32:40 17 A. Yes.

12:32:40 18 Q. Okay. And would you transport that  
12:32:45 19 individual in the back of your police vehicle?

12:32:47 20 A. Depending on the situation, possibly.

12:32:50 21 Q. What sorts of situations would you have  
12:32:53 22 to transport an individual who calls in for a 911  
12:32:57 23 transport?

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12:32:58 1 A. I --

12:32:58 2 MS. HUGGINS: Form. You can answer.

12:32:59 3 THE WITNESS: I specifically had one where  
12:33:03 4 it had an elderly woman and it was extremely cold  
12:33:07 5 outside. And she asked for assistance to get to, I  
12:33:09 6 forget what relative it was, their house. It was  
12:33:09 7 icy, cold, so I absolutely went over.

12:33:13 8 She does have to ride in the back of patrol  
12:33:16 9 vehicle, because that's procedure. And I assisted  
12:33:20 10 her to where she needed to go.

12:33:21 11 BY MR. DAVENPORT:

12:33:22 12 Q. That wasn't on this day, though,  
12:33:23 13 correct?

12:33:23 14 A. Correct.

12:33:24 15 Q. Correct, it wasn't?

12:33:25 16 A. It was not, yes.

12:33:26 17 Q. So it appears that the next time you  
12:33:28 18 became available was at 9:26 a.m.; is that correct?

12:33:31 19 A. Yes.

12:33:32 20 Q. Okay. So that would have meant from  
12:33:35 21 8:42 a.m. to 9:26 a.m. you were transporting this  
12:33:40 22 individual?

12:33:40 23 A. Not necessarily transporting the entire

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12:33:43 1 time.

12:33:43 2 Q. Okay. What else could have been  
12:33:45 3 happening during that time?

12:33:46 4 A. This would have been the time that  
12:33:49 5 dispatch made us available. I'm not certain what  
12:33:53 6 happened in the interim. It could have been a  
12:33:56 7 transport. I'm not certain.

12:33:57 8 Q. Okay. So the next situation was at  
12:34:01 9 9:37 a.m., there was a child neglect situation; do  
12:34:06 10 you see that?

12:34:06 11 A. Yes.

12:34:06 12 Q. Do you remember that call?

12:34:07 13 A. I do not.

12:34:09 14 Q. And that 17-0010471 would refer to the  
12:34:16 15 incident number, correct?

12:34:17 16 A. Yes.

12:34:18 17 Q. Okay. Now, it says at 10:12 a.m. you  
12:34:25 18 went out of service; what does that refer to?

12:34:28 19 A. We are no longer available for a call  
12:34:32 20 as of 10:12.

12:34:33 21 Q. Okay. Is that a break that you're  
12:34:34 22 taking?

12:34:35 23 A. I'm not certain why we went out of

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12:34:38 1 service.

12:34:38 2 Q. Okay. Do you get breaks during your  
12:34:41 3 shift?

12:34:41 4 A. We can request a break, yes.

12:34:43 5 Q. Okay. How long do you typically take a  
12:34:47 6 break, if you do request one?

12:34:48 7 A. It could be 30 minutes.

12:34:50 8 Q. Are you required to request a break at  
12:34:54 9 some point during your shift?

12:34:54 10 A. We're not required to, it's optional.

12:34:57 11 Q. Okay. Typically your shifts are 10  
12:35:00 12 hours, correct?

12:35:00 13 A. Yes.

12:35:01 14 Q. Okay. Do you ever take a break where  
12:35:04 15 you don't request one, are there any mandated  
12:35:09 16 breaks?

12:35:09 17 A. There --

12:35:09 18 MS. HUGGINS: Form. You can answer.

12:35:13 19 THE WITNESS: There are no mandated breaks.

12:35:15 20 BY MR. DAVENPORT:

12:35:15 21 Q. Okay. How often do you take 30-minute  
12:35:17 22 breaks during your shifts?

12:35:19 23 A. Occasionally.

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12:35:21 1 Q. Okay. More or less than half the  
12:35:24 2 shifts that you work?

12:35:26 3 MS. HUGGINS: Form.

12:35:27 4 THE WITNESS: I'm not certain.

12:35:31 5 BY MR. DAVENPORT:

12:35:32 6 Q. Do you ever take a lunch break during  
12:35:34 7 your shift?

12:35:34 8 A. That would be the lunch break.

12:35:36 9 Q. Okay. Do you ever eat your lunch in  
12:35:39 10 your car?

12:35:39 11 A. Yes.

12:35:40 12 Q. Okay. Is that most of the time?

12:35:42 13 A. Sometimes.

12:35:43 14 Q. Do you sometimes not eat lunch during  
12:35:46 15 the day?

12:35:46 16 A. I eat something every day.

12:35:48 17 Q. Okay. Snacks, then?

12:35:50 18 A. It could be a snack or it could be a  
12:35:53 19 lunch.

12:35:53 20 Q. Okay. Do you recall eating on  
12:35:56 21 January 1st of 2017?

12:35:57 22 A. I do not.

12:36:00 23 Q. Okay. Now, your next call is at

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12:36:07 1 10:36 a.m. and you were dispatched for domestic  
12:36:11 2 trouble; do you see that?

12:36:11 3 A. Yes.

12:36:12 4 Q. Do you remember anything about that  
12:36:13 5 call?

12:36:14 6 A. I do not.

12:36:15 7 Q. Okay. Now, at 10:57 a.m. it says that  
12:36:21 8 you were dispatched for an accident or injury at 37  
12:36:26 9 Schmarbeck; do you see that?

12:36:27 10 A. Yes.

12:36:27 11 Q. Who would have made that initial entry  
12:36:32 12 for accident or injury?

12:36:33 13 A. The dispatcher enters it.

12:36:35 14 Q. And how would the dispatcher enter that  
12:36:38 15 information?

12:36:38 16 A. It could -- it could be a call in from  
12:36:41 17 police, it could be a call in from a citizen.  
12:36:46 18 However they received the information they would  
12:36:49 19 dispatch a call.

12:36:51 20 Q. Okay. Now, it says at 11:22 your  
12:37:02 21 location change was ECMC; do you see that?

12:37:05 22 A. Yes.

12:37:09 23 Q. Would that mean that you had arrived at

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12:37:12 1 ECMC or that you were on your way to ECMC?

12:37:17 2 A. It could be either one.

12:37:18 3 Q. Okay. What's your typical practice, do  
12:37:25 4 you usually radio in when you arrive at a situation  
12:37:28 5 or when you're on your way to a -- or a new  
12:37:28 6 location?

12:37:31 7 MS. HUGGINS: Form. You can answer.

12:37:33 8 THE WITNESS: Typically when we're leaving  
12:37:34 9 to go to the situation or to the location. Excuse  
12:37:39 10 me.

12:37:39 11 BY MR. DAVENPORT:

12:37:40 12 Q. Okay. I asked both of them, so I  
12:37:42 13 definitely understand why you said that.

12:37:44 14 Now, it says at 3:37 your location was to  
12:37:52 15 CB; do you see that?

12:37:53 16 A. Yes.

12:37:54 17 Q. Does that refer to central booking?

12:37:56 18 A. Yes, I believe so.

12:37:58 19 Q. Okay. Now, at 3:48 p.m. it says on  
12:38:09 20 scene; do you see that?

12:38:09 21 A. Yes.

12:38:10 22 Q. Would that mean that you were on scene  
12:38:12 23 at central booking?

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12:38:14 1 A. Yes.

12:38:21 2 Q. Now, at 4:36 p.m. your location changed  
12:38:27 3 again to ECMC; do you see that?

12:38:28 4 A. Yes.

12:38:29 5 Q. Now, that would mean in your typical  
12:38:33 6 practice that you were on your way to ECMC,  
12:38:37 7 correct, not necessarily what you did that day, I  
12:38:39 8 just want to know typical practice, you normally  
12:38:42 9 radio in on your way to a new location?

12:38:44 10 A. Uh-huh.

12:38:45 11 Q. So based on your typical practice that  
12:38:48 12 would mean you're on your way to ECMC, correct?

12:38:48 13 A. Yes.

12:38:48 14 Q. Okay.

12:38:53 15 A. But, again, it would depend on how  
12:38:56 16 dispatch took our transmission. They would be the  
12:38:59 17 ones responsible for entering this.

12:39:01 18 Q. Okay. Now, at 4:37 p.m. it says en  
12:39:07 19 route; do you see that?

12:39:07 20 A. Yes.

12:39:08 21 Q. Now, based on that entry, would you say  
12:39:11 22 that your location change ECMC was made on your way  
12:39:16 23 to ECMC prior to you actually leaving central

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12:39:20 1 booking?

12:39:21 2 A. Can -- can you repeat that again?

12:39:22 3 Q. Sure. So at 4:37 p.m. you see the  
12:39:27 4 entry en route, correct?

12:39:28 5 A. Yes.

12:39:28 6 Q. So based on that entry would you say  
12:39:33 7 that the entry at 4:36 p.m. that says location  
12:39:38 8 change ECMC means that you are ready or getting  
12:39:40 9 ready to leave for ECMC rather than at ECMC?

12:39:45 10 MS. HUGGINS: Form. You can answer.

12:39:47 11 THE WITNESS: I would believe so, but,  
12:39:50 12 again, as I said, it would depend on how dispatch  
12:39:53 13 took our transmission, whether they would put  
12:39:57 14 location change as if we arrived or if we were  
12:40:00 15 leaving to go. I would take location change to  
12:40:06 16 mean we were on our way there.

12:40:08 17 BY MR. DAVENPORT:

12:40:08 18 Q. Okay. Now, the last entry says  
12:40:12 19 6:16 p.m. and shift ended; do you see that?

12:40:14 20 A. Yes.

12:40:14 21 Q. Does that mean that your shift had  
12:40:17 22 ended at that time?

12:40:20 23 A. This means that our history report is

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12:40:23 1 over. It doesn't necessarily mean that we're still  
12:40:26 2 not completing additional paperwork.

12:40:31 3 Q. Now, do you recall on January 1st of  
12:40:34 4 2017 after 6:16 p.m. did you have any further work  
12:40:38 5 that needed to be done before your shift ended that  
12:40:41 6 day?

12:40:41 7 A. I don't recall what time my shift ended  
12:40:43 8 that day.

12:40:44 9 Q. Okay. Could it have been after  
12:40:48 10 6:16 p.m.?

12:40:48 11 A. It could have been.

12:40:49 12 Q. Okay. How often would you go back or  
12:40:52 13 how often -- excuse me, strike that.

12:40:53 14 How often would you complete paperwork after  
12:40:58 15 your patrol duties were over?

12:41:00 16 MS. HUGGINS: Form.

12:41:01 17 THE WITNESS: It depends.

12:41:06 18 BY MR. DAVENPORT:

12:41:06 19 Q. Would it be more or less than half of  
12:41:09 20 the times that you worked?

12:41:11 21 A. I don't -- I couldn't put a specific  
12:41:14 22 number on the times.

12:41:15 23 Q. Okay. Now, when this says shift ended

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12:41:24 1 at 6:16 p.m., do you believe that that entry was  
12:41:30 2 made while you were still at ECMC?

12:41:32 3 A. I don't recall.

12:41:35 4 Q. Based on what you see on this dispatch  
12:41:38 5 monitor, do you have any reason to believe that  
12:41:41 6 that entry would not have been made at ECMC or  
12:41:44 7 while you were still at ECMC?

12:41:47 8 MS. HUGGINS: Form.

12:41:47 9 THE WITNESS: I -- I'm not certain where I  
12:41:49 10 was at 6:16 at that time.

12:41:51 11 BY MR. DAVENPORT:

12:41:51 12 Q. So I understand that you may not  
12:41:54 13 specifically recall, but based on what you see on  
12:41:57 14 the dispatch monitor, do you see that there are any  
12:42:00 15 other locations that you could have possibly been  
12:42:02 16 at at that time?

12:42:03 17 MS. HUGGINS: Form.

12:42:06 18 THE WITNESS: It doesn't -- there's no other  
12:42:09 19 location listed on here after ECMC.

12:42:11 20 BY MR. DAVENPORT:

12:42:12 21 Q. So would it be fair to say that that  
12:42:14 22 entry was more than likely made at ECMC or while  
12:42:18 23 you were still at ECMC?

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12:42:19 1 MS. HUGGINS: Form.

12:42:20 2 THE WITNESS: The dispatcher entered that in  
12:42:23 3 there, so I don't know where I was at that time. I  
12:42:26 4 don't recall.

12:42:26 5 BY MR. DAVENPORT:

12:42:27 6 Q. Do you recall responding to any other  
12:42:30 7 calls after ECMC?

12:42:30 8 A. No.

12:42:31 9 Q. What time should your shift -- was your  
12:42:35 10 shift scheduled to have ended that day?

12:42:37 11 A. 4:00 p.m.

12:42:40 12 Q. So if you worked until 6:16 p.m., would  
12:42:45 13 you have collected overtime for that day?

12:42:46 14 A. Yes.

12:42:47 15 Q. And how do they determine overtime for  
12:42:50 16 officers?

12:42:52 17 A. When we finish our shift -- or when we  
12:42:56 18 finish our shift, any additional time over that, I  
12:43:00 19 believe it's on the quarter.

12:43:01 20 Q. Okay. So that would be any additional  
12:43:05 21 time over 10 hours for each shift or would that be  
12:43:09 22 any additional time over 40 hours for a week?

12:43:13 23 A. After 10 hours of the shift.

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12:43:15 1 Q. Okay. So on this day you would have  
12:43:18 2 collected overtime for two hours and 16 minutes  
12:43:21 3 over your shift?

12:43:22 4 MS. HUGGINS: Form.

12:43:24 5 THE WITNESS: I'm not certain exactly what  
12:43:27 6 time my shift ended. So if -- like I said, I'm not  
12:43:31 7 sure if it was 6:16 or if I had stayed additional  
12:43:35 8 time. I'm not certain.

12:43:36 9 BY MR. DAVENPORT:

12:43:36 10 Q. If you stay additional time to work on  
12:43:39 11 paperwork, do you have to make any sort of an entry  
12:43:42 12 to end your shift?

12:43:43 13 A. We fill out a form.

12:43:45 14 Q. That's each day?

12:43:46 15 A. If we stay, if we fill out an overtime  
12:43:52 16 slip if we stay for every time we stay, yes.

12:43:53 17 Q. Okay. Are there any times that you are  
12:43:59 18 required to or that you would fill out paperwork  
12:44:03 19 during your regularly scheduled 10-hour shift?

12:44:06 20 MS. HUGGINS: Form.

12:44:07 21 BY MR. DAVENPORT:

12:44:08 22 Q. I'm sorry. That was a bad question.  
12:44:10 23 Are you required to patrol for your entire

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12:44:15 1 10-hour shift?

12:44:18 2 A. Minus the break we -- yes.

12:44:19 3 Q. Okay. So there would never be any time  
12:44:25 4 that you would end your shift early to complete  
12:44:27 5 paperwork, correct?

12:44:29 6 A. It depends. We would still be working,  
12:44:32 7 but I may call myself back to the station house to  
12:44:35 8 complete paperwork. Or field training officers  
12:44:37 9 they -- I believe it's -- I don't recall if it's  
12:44:39 10 30 minutes or a little bit longer to complete their  
12:44:43 11 field training officer paperwork.

12:44:44 12 So there are instances where you would call  
12:44:47 13 yourself out of service just prior to the end of  
12:44:50 14 your shift to complete documents.

12:44:51 15 Q. Okay. So I'm going to show you what's  
12:45:03 16 been marked as Exhibit 3. Do you recognize that  
12:45:07 17 document?

12:45:09 18 A. Yes.

12:45:11 19 Q. And what do you recognize it to be?

12:45:13 20 A. A complaint summary report.

12:45:14 21 Q. Where was the location for that  
12:45:16 22 complaint summary report?

12:45:17 23 A. 33 Schmarbeck.

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12:45:20 1 Q. Do you know the individual who was the  
12:45:23 2 complainant for that complaint summary report?

12:45:25 3 A. I do not.

12:45:26 4 Q. Have you ever encountered any  
12:45:28 5 individuals while working at C District at the  
12:45:32 6 location 33 Schmarbeck?

12:45:33 7 A. Not that I can recall.

12:45:36 8 Q. Okay. Do you know which officers  
12:45:37 9 responded to that call at 33 Schmarbeck?

12:45:40 10 A. Yes.

12:45:40 11 Q. Okay. And which officers were those?

12:45:43 12 A. Kyle Moriarity and Carl Schulz.

12:45:47 13 Q. What brought you to the scene that day  
12:45:50 14 for that complaint summary report?

12:45:54 15 A. From what I can recall, Officer  
12:45:58 16 McDermott had responded there before, so she wanted  
12:46:02 17 to see if they needed any assistance and give them  
12:46:05 18 information that she may have had from previously  
12:46:08 19 responding.

12:46:08 20 Q. Okay. Did she talk to you at all about  
12:46:11 21 previously responding for that individual?

12:46:14 22 A. I don't recall anything specific.

12:46:16 23 Q. Okay. Did she tell you when

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12:46:18 1 approximately she had previously responded?

12:46:20 2 A. I don't --

12:46:22 3 Q. For that location?

12:46:22 4 A. I don't recall.

12:46:23 5 Q. Did she tell you the information that  
12:46:25 6 she wanted to convey to Mr. Moriarity or Mr. Schulz  
12:46:29 7 that day?

12:46:30 8 A. I don't recall.

12:46:31 9 Q. Okay. Did she say the name of the  
12:46:34 10 individual that she had encountered previously?

12:46:37 11 A. Not that I can recall.

12:46:38 12 Q. Okay. Since this incident has she  
12:46:43 13 discussed any incidents that she has responded to  
12:46:47 14 at 33 Schmarbeck?

12:46:48 15 A. No.

12:46:49 16 Q. Okay. What about 37 Schmarbeck?

12:46:51 17 A. No.

12:46:53 18 Q. Okay.

12:46:53 19 MS. HUGGINS: Form.

12:46:53 20 BY MR. DAVENPORT:

12:46:54 21 Q. Besides January 1st of 2017, did you  
12:46:59 22 ride with Ms. McDermott on any other occasions?

12:47:03 23 A. Yes.

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12:47:03 1 Q. Okay. Were there any other times where  
12:47:06 2 a call was made from 33 or 37 Schmarbeck where you  
12:47:12 3 and Ms. McDermott went to go and investigate the  
12:47:15 4 situation?

12:47:15 5 A. Not that I could recall.

12:47:16 6 Q. But on this specific day she wanted to  
12:47:19 7 go to this call at 33 Schmarbeck, because she  
12:47:22 8 recalled responding to a previous incident there?

12:47:25 9 A. Yes.

12:47:25 10 Q. Okay. Approximately what time did you  
12:47:33 11 arrive at the scene that day?

12:47:35 12 A. I don't recall.

12:47:36 13 Q. Okay. Was it in the morning?

12:47:38 14 A. It was.

12:47:38 15 Q. Do you remember what the weather was  
12:47:41 16 like that day?

12:47:42 17 A. Not specifically.

12:47:43 18 Q. Was it cold?

12:47:44 19 A. Yes.

12:47:45 20 Q. Okay. Was it icy?

12:47:47 21 A. I don't recall.

12:47:48 22 Q. Do you recall any trouble walking that  
12:47:51 23 day?

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12:47:52 1 A. Not that I could recall.

12:47:54 2 Q. What types of shoes do you typically  
12:47:58 3 wear as a patrol officer?

12:48:02 4 A. I wear Bates boots.

12:48:04 5 Q. Okay. And that was the same at that  
12:48:06 6 time in January -- on January 1st of 2017?

12:48:06 7 A. Yes, they're department issued. I wear  
12:48:08 8 them all the time.

12:48:09 9 Q. Okay. And those are the same boots  
12:48:12 10 that are issued today?

12:48:13 11 A. Yes.

12:48:14 12 Q. Do you recall where you were  
12:48:17 13 approximately at the time that Ms. McDermott  
12:48:20 14 decided that she would help Officer Schulz and  
12:48:24 15 Officer Moriarity with that call at 33 Schmarbeck?

12:48:28 16 MS. HUGGINS: Form. You may answer.

12:48:29 17 THE WITNESS: I don't recall.

12:48:30 18 BY MR. DAVENPORT:

12:48:31 19 Q. Do you recall approximately how long it  
12:48:32 20 took you to drive from where you were previously to  
12:48:34 21 33 Schmarbeck?

12:48:35 22 A. I don't recall.

12:48:36 23 Q. Okay. When you arrived at the scene,

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12:48:38 1 what did you see?

12:48:40 2 A. I don't recall.

12:48:42 3 Q. Was there a car that was present that  
12:48:45 4 day?

12:48:50 5 A. I believe there -- we had parked behind  
12:48:53 6 a car.

12:48:54 7 Q. Okay. Do you remember the -- the color  
12:48:57 8 of that car?

12:48:58 9 A. I do not.

12:48:58 10 Q. Do you remember what type of a car it  
12:49:06 11 was?

12:49:06 12 A. I do not.

12:49:07 13 Q. Okay. Was it a large or a small  
12:49:10 14 vehicle?

12:49:15 15 A. I think it was a van.

12:49:17 16 Q. Okay.

12:49:17 17 A. I believe it was a van.

12:49:18 18 Q. Okay. When you arrived at the scene,  
12:49:22 19 were Officer Schulz or Officer Moriarity outside of  
12:49:26 20 their vehicle?

12:49:29 21 A. I could recall -- I -- no, I don't, I  
12:49:35 22 don't recall who was outside of the vehicle.

12:49:36 23 Q. Okay. Was there an individual standing

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12:49:41 1 on the sidewalk at that time?

12:49:42 2 A. I don't recall.

12:49:44 3 Q. Do you recall at any point was there an  
12:49:47 4 individual standing on the sidewalk?

12:49:49 5 A. I don't recall.

12:49:50 6 Q. Do you recall at any time was Officer  
12:49:52 7 Schulz or Officer Moriarity outside of their  
12:49:55 8 vehicle?

12:49:57 9 A. Can you?

12:49:59 10 Q. Prior to -- strike that.

12:50:05 11 Do you recall at any time during the  
12:50:07 12 incident that was responded to by Officer Schulz  
12:50:10 13 and Officer Moriarity at 33 Schmarbeck at any point  
12:50:14 14 while you were there were Officer Schulz or Officer  
12:50:18 15 Moriarity outside of their vehicle?

12:50:19 16 A. I recall off -- one of them being  
12:50:21 17 outside of their vehicle, but I don't recall who it  
12:50:23 18 was.

12:50:23 19 Q. Now, the officer that was not outside  
12:50:25 20 of their vehicle that was still inside the parked  
12:50:29 21 car, did they have their window up or down?

12:50:31 22 A. I don't recall them being inside the  
12:50:33 23 parked car. I just -- I just remember one officer

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12:50:36 1 being outside of the car. I don't recall where the  
12:50:37 2 other officer was and I don't recall if it was  
12:50:39 3 Kyle, Officer Moriarity or -- or Officer Schulz.

12:50:42 4 MS. HUGGINS: Do her a favor and just slow  
12:50:45 5 down.

12:50:45 6 THE WITNESS: Yeah, on the sidewalk, I don't  
12:50:45 7 recall.

12:50:45 8 BY MR. DAVENPORT:

12:50:45 9 Q. Okay.

12:50:48 10 A. Or if they were in the street. I just  
12:50:48 11 remember them being outside of the car, one of  
12:50:48 12 them.

12:50:54 13 Q. Do you recall approximately how long  
12:50:55 14 you were at the scene responding to that incident  
12:50:58 15 at 33 Schmarbeck?

12:50:59 16 A. I do not.

12:51:00 17 Q. Okay. Based on what is recorded on  
12:51:04 18 that document, does that refresh your recollection  
12:51:05 19 for how long you were at that scene?

12:51:08 20 A. No.

12:51:08 21 Q. Okay. Is there any reason to dispute  
12:51:13 22 that the time entries on there that would indicate  
12:51:16 23 that Officer Schulz and Officer Moriarity were at

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12:51:19 1 the scene for eight seconds?

12:51:21 2 MS. HUGGINS: Form.

12:51:21 3 THE WITNESS: This would be a dispatch  
12:51:23 4 question. They would enter these times and --

12:51:27 5 BY MR. DAVENPORT:

12:51:28 6 Q. Have you ever had to review a complaint  
12:51:30 7 summary report before?

12:51:33 8 A. In criminal court, yes.

12:51:35 9 Q. Okay. Were you asked questions about  
12:51:38 10 those complaint summary reports?

12:51:40 11 A. I don't recall.

12:51:42 12 Q. Okay. Have you ever had reason to  
12:51:44 13 dispute the time entries that are made on those  
12:51:48 14 complaint summary reports?

12:51:49 15 A. Not that I could recall.

12:51:51 16 Q. I'm going to show you what has now been  
12:51:55 17 marked as Exhibit 4A. Do you recognize that  
12:52:00 18 document?

12:52:01 19 A. Yes.

12:52:01 20 Q. And what do you recognize it to be?

12:52:04 21 A. A complaint summary report.

12:52:05 22 Q. Okay. What was the date that this  
12:52:11 23 report was created?

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12:52:12 1 A. 1/1 of 2017.

12:52:17 2 Q. Okay. Who are the officers that are  
12:52:18 3 listed on this report?

12:52:20 4 A. Carl Schulz, Kyle Moriarity, Lauren  
12:52:26 5 McDermott, and Jenny Velez.

12:52:29 6 Q. Now, it says that the location of the  
12:52:32 7 incident was 37 Schmarbeck, correct?

12:52:36 8 A. Yes.

12:52:36 9 Q. And that the disposition was a P1375  
12:52:40 10 crime report?

12:52:44 11 A. Yes.

12:52:45 12 Q. Okay. And so I'm actually looking  
12:52:48 13 right underneath the address where it says  
12:52:51 14 disposition one and then P1375 crime reports right  
12:52:55 15 on the first page. I don't know. Do you see that  
12:52:58 16 right underneath 37 Schmarbeck it's in bold?

12:53:01 17 A. Yes.

12:53:01 18 Q. Okay. Who makes that entry for what  
12:53:07 19 the disposition is?

12:53:08 20 A. It could be dispatch or we can enter  
12:53:11 21 it.

12:53:11 22 Q. So the officers do have that ability to  
12:53:14 23 enter that disposition?

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12:53:15 1 A. The primary officer, yes.

12:53:17 2 Q. Okay. And who would be the primary  
12:53:19 3 officer, what does that refer to?

12:53:22 4 A. The --

12:53:22 5 MS. HUGGINS: Form.

12:53:22 6 THE WITNESS: Primary officer would be the  
12:53:26 7 officer who was listed as primary on this complaint  
12:53:30 8 summary report, if you look at 10:57:17.

12:53:38 9 BY MR. DAVENPORT:

12:53:39 10 Q. Okay. Now, would it be the primary  
12:53:45 11 officer at the time of the disposition who would  
12:53:48 12 make that entry?

12:53:49 13 A. It would be who -- from the computer  
12:53:53 14 the primary officer who was in the computer as the  
12:53:56 15 primary officer can log in a disposition.  
12:53:59 16 Otherwise, it has to be a radio, it has to be radio  
12:54:05 17 that logs it.

12:54:06 18 Q. Would there be any way to tell if it  
12:54:09 19 was radioed in or if that officer made that entry  
12:54:13 20 themselves?

12:54:14 21 A. I can't tell.

12:54:16 22 Q. Okay. Do you see at 1:14:01 the entry  
12:54:20 23 set to primary C241?

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12:54:24 1 A. I'm sorry. What time was that?

12:54:26 2 Q. It would be 1:14:01.

12:54:30 3 A. I see that.

12:54:31 4 Q. You do see that?

12:54:33 5 A. Uh-huh, yes.

12:54:34 6 Q. And that would refer to the call sign

12:54:37 7 C241 becoming the primary officer for this

12:54:41 8 complaint summary report?

12:54:42 9 A. Yes.

12:54:42 10 Q. Okay. Now, based on your general

12:54:46 11 practice, would it be C241 or C230 who would have

12:54:51 12 made that entry for the disposition of P1375 crime

12:54:55 13 report?

12:54:55 14 MS. HUGGINS: Form.

12:54:56 15 THE WITNESS: I don't know who entered that.

12:54:57 16 I don't know if it was a patrol or radio at this

12:55:01 17 time.

12:55:01 18 BY MR. DAVENPORT:

12:55:01 19 Q. Okay. If the entry was made by a

12:55:05 20 patrol officer, would the entry be made by C241 or

12:55:09 21 C230?

12:55:10 22 MS. HUGGINS: Form.

12:55:10 23 THE WITNESS: C24 -- if it was entered by a

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12:55:13 1 patrol officer, C241 would have had the ability.

12:55:16 2 BY MR. DAVENPORT:

12:55:17 3 Q. Okay.

12:55:17 4 A. If the radio had changed them over,  
12:55:19 5 because it -- again, I don't know if that's typed  
12:55:21 6 in or if it's entered as a -- I don't know how they  
12:55:23 7 do it up in dispatch.

12:55:26 8 Q. Okay. Now, it says at 10:55:42 sent to  
12:55:36 9 dispatch, ambulance 37 Schmarbeck Avenue, priority  
12:55:41 10 six. What does that priority number refer to?

12:55:46 11 A. Dispatch sets priority.

12:55:49 12 Q. Okay. What are the numbers that are  
12:55:53 13 used for that priority scale?

12:55:55 14 A. I'm not certain.

12:55:56 15 Q. Do you know the range of numbers that  
12:55:59 16 are used?

12:56:03 17 A. I know the scale, one is highest  
12:56:06 18 priority. I'm not certain. I can't recall  
12:56:12 19 the -- which would be the highest or the lowest  
12:56:14 20 priority. I don't know what the scale ends at. I  
12:56:17 21 don't recall at this time.

12:56:18 22 Q. Okay. But one you know is the highest  
12:56:23 23 priority?

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12:56:23 1 A. Correct.

12:56:24 2 Q. Okay. So a priority six, is that a low  
12:56:29 3 or a high priority?

12:56:30 4 A. I'm not certain what the scale is.

12:56:33 5 Q. And you said that that --

12:56:34 6 A. What it's ranged, where the range is,  
12:56:37 7 I'm not certain at this time.

12:56:39 8 Q. And you said that that determination is  
12:56:41 9 made by dispatch?

12:56:43 10 A. Correct, dispatch sets the priority.

12:56:46 11 Q. Okay. Now, it says at 10:55:56 call  
12:56:55 12 type changed, accident or injury, and now it says  
12:57:01 13 priority to two; do you see that?

12:57:02 14 A. Yes.

12:57:02 15 Q. What would be the reason that the  
12:57:04 16 priority would change from six to two?

12:57:07 17 MS. HUGGINS: Form. You can answer.

12:57:08 18 THE WITNESS: Dispatch would based on  
12:57:11 19 whatever dispatch had that would be -- they would  
12:57:14 20 determine that.

12:57:14 21 BY MR. DAVENPORT:

12:57:15 22 Q. Okay. In your experience any time that  
12:57:21 23 an ambulance is called from dispatch what's the

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12:57:24 1 typical priority that's given to those entries?

12:57:27 2           A.     There's no typical priority for the  
12:57:30 3 ambulance. It depends on what the situation that  
12:57:33 4 the ambulance is responding to.

12:57:34 5           Q.     Okay. Now, do you see where it says en  
12:57:39 6 route C230 at 10:57:17?

12:57:43 7           A.     Yes.

12:57:45 8           Q.     Would that be en route for 37  
12:58:00 9 Schmarbeck Avenue specifically?

12:58:00 10          A.     That would respond to the call, yes.  
12:58:09 11 But, again, it's a dispatch entry.

12:58:16 12          Q.     Now, do you see where it says en route  
12:58:19 13 C241?

12:58:21 14          A.     Yes.

12:58:21 15          Q.     Okay. And who does C241 refer to on  
12:58:30 16 January 1st of 2017?

12:58:31 17          A.     Officer McDermott.

12:58:32 18          Q.     Okay. Do you see where it says  
12:58:35 19 dispatch C242?

12:58:37 20          A.     Yes.

12:58:39 21          Q.     And who does call sign C242 refer to?

12:58:43 22          A.     Myself.

12:58:47 23          Q.     Now, based on the entries that it says

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12:58:54 1 en route at 10:57:17, en route C241 at 10:57:39,  
12:59:03 2 and dispatched you at 10:57:41, if it was sent to  
12:59:10 3 dispatch at 10:55:42, so that would have been  
12:59:15 4 before all three entries, who would that call have  
12:59:18 5 been made to to dispatch?

12:59:20 6 MS. HUGGINS: Form.

12:59:21 7 BY MR. DAVENPORT:

12:59:21 8 Q. Would that have been an officer or  
12:59:24 9 would that have been an individual at the scene?

12:59:24 10 MS. HUGGINS: The 10:55:42 call, is that  
12:59:27 11 what you're referring to?

12:59:27 12 BY MR. DAVENPORT:

12:59:27 13 Q. Yes, that's what I'm referring to.

12:59:29 14 A. Could you repeat that question?

12:59:31 15 Q. Sure. So you'll notice that it says en  
12:59:34 16 route C230, en route C241?

12:59:38 17 A. Uh-huh.

12:59:39 18 Q. And dispatch C242, and that all three  
12:59:42 19 of those entries were made after 10:55:42, which is  
12:59:47 20 when the ambulance call was sent to dispatch; do  
12:59:51 21 you see that?

12:59:51 22 A. Yes.

12:59:51 23 Q. Now, based on those subsequent entries,

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12:59:55 1 would you say that the call to dispatch was made by  
12:59:58 2 an individual or by the officers for the ambulance?

13:00:07 3 MS. HUGGINS: Form. You can answer.

13:00:09 4 THE WITNESS: I'm not certain who called  
13:00:11 5 that in to the -- to the ambulance -- or to  
13:00:14 6 dispatch.

13:00:14 7 BY MR. DAVENPORT:

13:00:15 8 Q. Okay. At 10:54:42 do you see at the  
13:00:18 9 end where it says phone, 716-462-2147?

13:00:23 10 A. Yes.

13:00:23 11 Q. Is that your phone number?

13:00:25 12 A. No.

13:00:26 13 Q. Do you know if that's any of the other  
13:00:28 14 officers' numbers at that time?

13:00:32 15 A. I'm not certain whose phone number that  
13:00:35 16 is.

13:00:35 17 Q. Okay. Now, do you see at 11:03:52  
13:00:41 18 there's another phone call received from the same  
13:00:44 19 number, 716-462-2147; do you see that?

13:00:48 20 A. Yes.

13:00:49 21 Q. Okay. And, again, that's not your  
13:00:51 22 phone number or any of the other officers',  
13:00:54 23 correct?

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13:00:54 1 A. It's not my phone number and I'm not  
13:00:57 2 certain whose phone number that is.

13:00:59 3 Q. Okay. Now, do you see at 11:04:20 it  
13:01:05 4 says another call, female requests ambulance for  
13:01:09 5 injured 54-year-old boyfriend; do you see that?

13:01:12 6 A. Yes.

13:01:13 7 Q. Would that call refer to 716-462-2147?

13:01:20 8 A. It appears that way based on how  
13:01:23 9 they're right after each other.

13:01:25 10 Q. Okay. Now, do you see where it says at  
13:01:30 11 11:04:26 E-D-I-N-T-F-D?

13:01:34 12 A. Yes.

13:01:35 13 Q. What does that stand for?

13:01:37 14 A. The ambulance is notified.

13:01:38 15 Q. Okay. Now, do you see at 11:07:31  
13:01:49 16 where it says cameras on 37 has video of man  
13:01:54 17 flopping on the ground?

13:01:55 18 A. Yes.

13:01:56 19 Q. Now, that entry would have been made by  
13:01:59 20 dispatch, correct?

13:02:00 21 A. Yes.

13:02:00 22 Q. Okay. And do you see where it says  
13:02:04 23 000478 next to that entry?

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13:02:08 1 A. Yes.

13:02:10 2 Q. Does that refer to Joseph Kessler in  
13:02:16 3 the top corner, it's top right corner, it says  
13:02:20 4 dispatched by 000478 Kessler, Joseph; do you see  
13:02:24 5 that?

13:02:24 6 A. Yes.

13:02:25 7 Q. Okay. Now, would the 000478 entry at  
13:02:29 8 11:07:31 a.m., would that entry have been made by  
13:02:35 9 Joseph Kessler?

13:02:35 10 A. What time was it?

13:02:36 11 Q. 11:07:31.

13:02:38 12 A. It appears that way on this document.

13:02:41 13 Q. Okay. And would Mr. Kessler have made  
13:02:46 14 that entry based on what was conveyed to him by  
13:02:50 15 either the officers or the individuals at the  
13:02:51 16 scene?

13:02:52 17 MS. HUGGINS: Form. You may answer.

13:02:54 18 THE WITNESS: That would be a question for  
13:02:56 19 Mr. Kessler.

13:02:56 20 BY MR. DAVENPORT:

13:02:56 21 Q. Okay.

13:02:57 22 A. I'm not certain where he received that  
13:02:59 23 information.

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13:03:00 1 Q. Would it be fair to say that  
13:03:02 2 that -- those would have been the only sources  
13:03:04 3 where he could have received that information?

13:03:06 4 MS. HUGGINS: Form.

13:03:06 5 THE WITNESS: Again, I'm not certain where  
13:03:09 6 he -- how they get their information from -- if  
13:03:11 7 they get it from the county, 911, officers,  
13:03:14 8 civilians. I'm not certain where he got this  
13:03:17 9 information from.

13:03:17 10 BY MR. DAVENPORT:

13:03:18 11 Q. Sure. But you did say it would either  
13:03:20 12 come from officers or civilians. So would it be  
13:03:23 13 fair to say that that entry would have to be made  
13:03:26 14 by either an officer based on information that he  
13:03:29 15 receives either from an officer or an individual at  
13:03:31 16 the scene?

13:03:31 17 MS. HUGGINS: Form.

13:03:32 18 THE WITNESS: It's a possibly.

13:03:32 19 BY MR. DAVENPORT:

13:03:33 20 Q. Okay. Would there be any other sources  
13:03:35 21 where he could have received that information from?

13:03:36 22 A. I'm not trained in dispatch.

13:03:38 23 Q. Okay. Now, at 11:22:34 it says

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13:03:44 1 location changed, C230 ECMC; do you see that?

13:03:48 2 A. Yes.

13:03:48 3 Q. And call sign C230, do you know who  
13:03:54 4 that referred to on the day of the incident?

13:03:57 5 A. I'm not certain who it was assigned to.

13:04:00 6 Q. But it's neither you or Ms. McDermott,  
13:04:04 7 correct?

13:04:04 8 A. Correct.

13:04:04 9 Q. Would it be fair to say that it was  
13:04:07 10 either Carl Schulz or Kyle Moriarity?

13:04:10 11 A. I believe so.

13:04:12 12 Q. It wouldn't refer to any other  
13:04:14 13 officers, correct?

13:04:14 14 A. Correct.

13:04:15 15 Q. Okay. Now, at 11:22:40 it says  
13:04:21 16 location change, C241 ECMC; would that refer to  
13:04:26 17 Ms. McDermott?

13:04:27 18 A. Yes.

13:04:27 19 Q. Do you see at 11:22:4 a.m. location  
13:04:32 20 change, C242 ECMC?

13:04:34 21 A. Yes.

13:04:34 22 Q. Now, what would cause that six-second  
13:04:39 23 difference between you and Ms. McDermott for the

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13:04:42 1 location change?

13:04:42 2 MS. HUGGINS: Form.

13:04:43 3 THE WITNESS: That would be dispatch.

13:04:44 4 BY MR. DAVENPORT:

13:04:45 5 Q. Okay. Did you and Ms. McDermott have  
13:04:47 6 to contact dispatch separately in order to change  
13:04:51 7 your location?

13:04:52 8 A. We could do it together. Radio  
13:04:54 9 may -- dispatch may just do it, because they know  
13:04:57 10 we're riding together.

13:04:58 11 Q. Okay. Now, at 11:23:01 C230 will be a  
13:05:07 12 941; do you see that entry?

13:05:09 13 A. Yes.

13:05:09 14 Q. Okay. And C230 does not refer you to  
13:05:13 15 either you or Ms. McDermott, correct?

13:05:15 16 A. Correct.

13:05:16 17 Q. When it says will be a 941, what does  
13:05:19 18 that say to you?

13:05:20 19 MS. HUGGINS: Form.

13:05:20 20 THE WITNESS: Will be a 941 it says it's a  
13:05:28 21 mental health evaluation.

13:05:31 22 BY MR. DAVENPORT:

13:05:32 23 Q. Now, at that time, had you, personally,

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13:05:36 1 made any observations of Mr. Kistner that would  
13:05:40 2 lead you to believe that he needed a 941 mental  
13:05:44 3 health evaluation?

13:05:46 4 A. That I personally observed?

13:05:47 5 Q. You, personally.

13:05:48 6 A. No.

13:05:49 7 Q. Okay. Did you and the other officers  
13:05:51 8 discuss whether Mr. Kistner would be subjected to a  
13:05:52 9 941 evaluation before leaving Schmarbeck?

13:05:56 10 A. I did not.

13:05:57 11 Q. Do you know if Ms. McDermott discussed  
13:06:00 12 with any of the other officers whether Mr. Kistner  
13:06:03 13 would be subjected to a 941 --

13:06:03 14 A. I don't --

13:06:03 15 Q. -- examination?

13:06:04 16 A. I don't know.

13:06:04 17 Q. When Mr. Kistner was being brought to  
13:06:07 18 ECMC, did you have any reason to believe that he  
13:06:09 19 would be evaluated for a mental health evaluation?

13:06:12 20 MS. HUGGINS: Form.

13:06:13 21 THE WITNESS: I don't recall knowing that he  
13:06:15 22 was going up for a 941. I recall believing it was  
13:06:20 23 going to be a medical evaluation.

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13:06:21 1 BY MR. DAVENPORT:

13:06:22 2 Q. And when you say a medical evaluation,  
13:06:23 3 that refers to any physical injuries?

13:06:25 4 A. Correct.

13:06:26 5 Q. What about mental health or anything  
13:06:28 6 like that?

13:06:29 7 A. No.

13:06:30 8 Q. Okay. Would physical injuries also  
13:06:34 9 include any head trauma?

13:06:36 10 A. It would be a complete evaluation.

13:06:38 11 Q. Okay. So do you know if the location  
13:06:53 12 change at 11:22 -- in between 11:22:34 and

13:07:00 13 11:22:46, were you and the other officers at ECMC  
13:07:04 14 at that time or were you preparing to leave for  
13:07:06 15 ECMC?

13:07:08 16 A. I'm sorry. Can you give me those two  
13:07:11 17 times again?

13:07:11 18 Q. Sure. So at location -- at time  
13:07:13 19 11:22:34 and 11:22:46, those entries for location  
13:07:20 20 change, do you know if you and the other officers  
13:07:23 21 would have been traveling to ECMC or if you would  
13:07:27 22 have already been at ECMC at that time?

13:07:29 23 A. I don't recall.

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13:07:29 1 MS. HUGGINS: Form. You can answer.

13:07:30 2 THE WITNESS: I don't recall. And that  
13:07:31 3 would be, again, up to when we notified dispatch  
13:07:35 4 and when they entered it as well.

13:07:37 5 BY MR. DAVENPORT:

13:07:38 6 Q. Okay. If those entries were correct  
13:07:43 7 for location change 11:22:34 for C230 --

13:07:43 8 A. Excuse me.

13:07:49 9 Q. -- and then that next entry saying  
13:07:51 10 11:23:01, C230 will be a 941, if they were  
13:07:57 11 traveling to ECMC during that time, would you agree  
13:08:01 12 that that evaluation would have been made -- or  
13:08:04 13 that call would have been made while they -- while  
13:08:07 14 they were still in their police vehicle?

13:08:09 15 MS. HUGGINS: Form.

13:08:10 16 THE WITNESS: It depends, not necessarily.  
13:08:13 17 I'm not sure.

13:08:13 18 BY MR. DAVENPORT:

13:08:14 19 Q. Okay.

13:08:19 20 A. Again, that would depend on when  
13:08:22 21 dispatch entered it.

13:08:23 22 Q. Now, do you see at 11:30:12 where it  
13:08:27 23 says on scene C230?

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13:08:29 1 A. Yes.

13:08:30 2 Q. Would that have been ECMC that they  
13:08:32 3 were on scene for?

13:08:39 4 A. They changed their location to ECMC.  
13:08:41 5 And then the next entry would be on scene, it would  
13:08:44 6 appear to be that way.

13:08:45 7 Q. Okay. Do you see at 11:30:35 C230  
13:08:49 8 suspect broke mirror on car 473 intentionally?

13:08:54 9 A. Yes.

13:08:54 10 Q. Okay. And that entry would have been  
13:08:58 11 made based off of information given by the  
13:09:01 12 individual with call sign C230?

13:09:04 13 A. This just said it's information per  
13:09:09 14 C230.

13:09:12 15 Q. It says -- I'm sorry. It says  
13:09:15 16 information per --

13:09:15 17 A. This is from -- from C230 that this  
13:09:18 18 information is coming in there.

13:09:20 19 Q. Okay. So the C230 before that  
13:09:23 20 information, that means that that information came  
13:09:26 21 from call sign C230, correct?

13:09:29 22 A. It appears to be that way, yes. The  
13:09:31 23 dispatch entered it, yes.

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13:09:33 1 Q. Now, do you see at 1:14:01 where it  
13:09:36 2 says set to primary C241?

13:09:37 3 A. Yes.

13:09:37 4 Q. And C241 would refer to Ms. McDermott,  
13:09:41 5 correct?

13:09:41 6 A. Yes.

13:09:41 7 Q. Were you part of that discussion for  
13:09:44 8 Ms. McDermott being set to the primary officer?

13:09:47 9 A. Not that I could recall.

13:09:48 10 Q. Okay. Do you know why Ms. McDermott  
13:09:53 11 was set to the primary officer?

13:10:00 12 A. I don't recall.

13:10:01 13 Q. Okay. Now, you and Ms. McDermott did  
13:10:07 14 not transfer or take Mr. Kistner to ECMC, correct?

13:10:11 15 A. Correct.

13:10:12 16 Q. Okay. Why didn't you and Ms. McDermott  
13:10:16 17 take Mr. Kistner to ECMC?

13:10:18 18 A. From what I can recall, he was placed  
13:10:21 19 into the rear of Officer Moriarity and Officer  
13:10:25 20 Schulz's car and they -- they transported him up.

13:10:28 21 I don't recall the reason why he wasn't  
13:10:30 22 placed in our car, for what reason, I don't recall.

13:10:33 23 Q. Do you remember any sort of a

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13:10:35 1 discussion between you and the other officers who  
13:10:41 2 would stay at ECMC at this time?

13:10:43 3 A. I don't recall the conversation.

13:10:44 4 Q. But do you recall having that sort of  
13:10:47 5 type of -- that sort of a conversation?

13:10:49 6 A. No.

13:10:49 7 Q. Okay. Why was it that you and  
13:10:52 8 Ms. McDermott stayed at ECMC and Mr. Schulz and  
13:10:55 9 Mr. Moriarity left?

13:10:56 10 A. That is the decision that was made. I  
13:10:59 11 just don't recall the -- having the conversation or  
13:11:02 12 the context of it. I don't recall if -- I just  
13:11:05 13 don't recall it.

13:11:07 14 Q. So you said generally you work the  
13:11:10 15 6:00 a.m. to 4:00 p.m. shift, correct?

13:11:12 16 A. Yes.

13:11:14 17 Q. At any times are you tired during your  
13:11:17 18 shifts?

13:11:18 19 MS. HUGGINS: Form.

13:11:21 20 THE WITNESS: Sometimes.

13:11:22 21 BY MR. DAVENPORT:

13:11:23 22 Q. Okay. Do you recall being tired for  
13:11:26 23 whatever reason during this shift?

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13:11:29 1 A. I don't recall.

13:11:30 2 Q. Okay. Do you recall what you did the  
13:11:32 3 night before January 1st of 2017?

13:11:34 4 A. I don't recall.

13:11:35 5 Q. What do you typically do on a New Years  
13:11:40 6 Eve?

13:11:40 7 A. Well, I'm a mom and my -- I have a  
13:11:43 8 little guy. At the time he would have been was it  
13:11:48 9 January '17, three, so I have a three-year-old, so  
13:11:54 10 I -- I don't recall, but I know I wasn't out.

13:11:56 11 Q. Okay. Did you have any friends over?

13:12:00 12 A. Not that I recall.

13:12:01 13 Q. Okay. Did you have any police officers  
13:12:06 14 over to your house the night before?

13:12:08 15 A. Not that I could recall. I  
13:12:09 16 don't -- yeah, not that I could recall.

13:12:14 17 Q. Okay. Now, do you see at 2:45:35 C241  
13:12:21 18 NMT?

13:12:21 19 A. Can you repeat that time again?

13:12:23 20 Q. It would be 2:45:35 C241 MNT?

13:12:29 21 A. Yes.

13:12:30 22 Q. Okay. What does NMT refer to?

13:12:34 23 A. Needed more time.

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13:12:35 1 Q. Needed more time. Okay. Does dispatch  
13:12:41 2 always make entries on complaint summary reports  
13:12:44 3 when an officer requests more time?

13:12:47 4 A. That would be a question for dispatch  
13:12:49 5 and who the dispatcher is. Sometimes they change  
13:12:54 6 out during the shift, so some may, some may not.

13:12:58 7 Q. So there's no automatic entry that's  
13:13:01 8 made after an officer requests more time, correct?

13:13:03 9 A. Correct.

13:13:04 10 Q. And you would agree at this time you  
13:13:09 11 had spent nearly four hours on this call, correct?

13:13:13 12 MS. HUGGINS: Form. You can answer.

13:13:17 13 THE WITNESS: What time are we at now, 2:45,  
13:13:21 14 correct.

13:13:21 15 BY MR. DAVENPORT:

13:13:22 16 Q. Okay. Do you recall if at any other  
13:13:26 17 time you asked for more time from dispatch?

13:13:29 18 A. I -- I didn't.

13:13:29 19 Q. Do you recall if Ms. McDermott at any  
13:13:31 20 time asked for more time?

13:13:33 21 A. I don't recall.

13:13:33 22 Q. Okay. But it's typically every  
13:13:36 23 20 minutes, correct, that an officer asks for more

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13:13:39 1 time on a certain call?

13:13:41 2 MS. HUGGINS: Form.

13:13:41 3 THE WITNESS: Not typically. We try, we  
13:13:44 4 try, but it doesn't always happen.

13:13:45 5 BY MR. DAVENPORT:

13:13:45 6 Q. Okay. Do you know if that request for  
13:13:47 7 more time would have been made at ECMC or a  
13:13:50 8 different location?

13:13:50 9 A. It appears based on this complaint  
13:13:54 10 summary it was at ECMC.

13:13:56 11 Q. Okay. Now, at 3:37:06 it says location  
13:14:01 12 changed C241 CB. And then at it would be 3:37:09  
13:14:07 13 location changed C242 CB. Now, C -- CB refers to  
13:14:13 14 central booking, correct?

13:14:15 15 A. Correct.

13:14:15 16 Q. And that would be you and Ms. McDermott  
13:14:19 17 were on your way to central booking?

13:14:21 18 A. Yes.

13:14:22 19 Q. Okay. And then the next entry says  
13:14:28 20 3:48:31 on scene C242. And then at 3:48:35 it says  
13:14:36 21 on scene C241. Would that refer to you and  
13:14:41 22 Ms. McDermott being at central booking at that  
13:14:44 23 time?

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13:14:44 1 A. It appears to be so, yes.

13:14:46 2 Q. Okay. Now, when it says 4:36:51 and  
13:14:52 3 4:36:55 location changed C241, C242 to ECMC; do you  
13:14:59 4 see that?

13:14:59 5 A. Yes.

13:15:00 6 Q. Okay. And that would refer to you and  
13:15:03 7 Ms. McDermott going to ECMC?

13:15:05 8 A. Yes.

13:15:06 9 Q. Okay. So that would mean that you and  
13:15:13 10 Ms. McDermott spent approximately 45 minutes at  
13:15:18 11 central booking?

13:15:20 12 A. If dispatch entered this at the -- like  
13:15:22 13 I said, when we made the call at the right time, it  
13:15:27 14 appears to be that way, yes.

13:15:27 15 Q. Okay. Do you have any reason to  
13:15:30 16 dispute that you and Ms. McDermott spent 45 minutes  
13:15:33 17 at central booking?

13:15:35 18 A. I don't recall the exact amount of time  
13:15:36 19 we were there.

13:15:36 20 Q. Now, when you arrived at central  
13:15:38 21 booking, was Mr. Kistner in handcuffs?

13:15:39 22 A. Yes.

13:15:40 23 Q. What did you do, did you walk into

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13:15:43 1 central booking, I'm assuming, with Mr. Kistner in  
13:15:47 2 handcuffs?

13:15:48 3 A. We walk into the -- yes, into central  
13:15:50 4 booking with him in handcuffs.

13:15:52 5 Q. Okay. Did you speak to anybody at  
13:15:54 6 central booking at that time?

13:15:56 7 A. I don't recall who went up to the  
13:15:58 8 window with Officer McDermott and myself, because  
13:16:01 9 we have to produce our paperwork at -- to the  
13:16:04 10 report technician at the window. I don't remember  
13:16:07 11 which one of us had done that.

13:16:09 12 Q. What sort of paperwork do you produce  
13:16:12 13 to the individual at central booking?

13:16:14 14 A. The arrest form.

13:16:15 15 Q. Okay. Any other paperwork besides the  
13:16:19 16 arrest form?

13:16:19 17 A. Medical clearance paperwork, if we have  
13:16:22 18 it.

13:16:22 19 Q. Okay. Now, for Mr. Kistner, did you  
13:16:26 20 have a medical clearance form?

13:16:28 21 A. We had his discharge paperwork, I  
13:16:30 22 believe.

13:16:30 23 Q. Okay. So you would have provided his

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13:16:36 1 discharge paperwork to the individual at central  
13:16:38 2 booking?

13:16:39 3 A. We would, any documents we have we  
13:16:41 4 would give them to central booking.

13:16:43 5 Q. Okay. Besides the arrest form and  
13:16:45 6 medical clearance form, do you recall any other  
13:16:48 7 paperwork that you had for Mr. Kistner?

13:16:50 8 A. I don't recall any other that we had.

13:16:52 9 Q. Okay. After producing that paperwork  
13:16:55 10 to the person at central booking, did you have any  
13:16:58 11 further conversations with that individual?

13:17:00 12 A. Again, I don't remember who produced  
13:17:01 13 it. I don't know if Officer McDermott or myself  
13:17:03 14 did, but I don't recall the conversation.

13:17:05 15 Q. So it was one of you, but not both of  
13:17:08 16 you?

13:17:09 17 A. Correct, one of us would. I mean, both  
13:17:10 18 of us could go up to the window, but one of us  
13:17:13 19 would hand over paperwork. I just don't recall  
13:17:17 20 which one of us did.

13:17:18 21 Q. Now, after either you or Ms. McDermott  
13:17:18 22 handed the paperwork to the person at central  
13:17:21 23 booking, what would you and Ms. McDermott do next?

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13:17:24 1 MS. HUGGINS: Form. You can answer.

13:17:26 2 THE WITNESS: Mr. Kistner would be sitting  
13:17:28 3 on a bench while we handed in the paperwork, any  
13:17:32 4 property he had, anything like that, we would also  
13:17:35 5 give that for inventory.

13:17:37 6 Then we would just wait for the report  
13:17:39 7 technician to complete entering the information,  
13:17:42 8 because they have to do background warrant checks,  
13:17:47 9 anything like that, and then the cell block  
13:17:50 10 attendants call us into the next room.

13:17:52 11 Q. Do you remember or recall who the  
13:17:54 12 report technician was on January 1st of 2017?

13:17:57 13 A. I do not.

13:17:58 14 Q. Okay. Do you recall who the  
13:17:59 15 individuals at central booking who would have been  
13:18:02 16 the search attendants?

13:18:03 17 A. I do not.

13:18:04 18 Q. Okay. Was their name Joseph?

13:18:07 19 A. I don't recall.

13:18:08 20 Q. Have you ever come across a -- an  
13:18:12 21 individual at central booking who does the searches  
13:18:16 22 named Joseph?

13:18:19 23 A. I -- is that a first name or a last

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13:18:22 1 name, I don't --

13:18:23 2 Q. First name.

13:18:23 3 A. Yeah, I don't recall.

13:18:24 4 Q. Okay. Joseph Buyers, does that ring a  
13:18:26 5 bell for you?

13:18:27 6 A. The name sounds familiar, but I  
13:18:31 7 can't -- I can't even picture who that is.

13:18:32 8 Q. Okay. So besides running a background  
13:18:40 9 search for arrest warrants and other information,  
13:18:44 10 what else does the report technician do at central  
13:18:48 11 book?

13:18:48 12 A. I'm aware that they do that, but I'm  
13:18:52 13 not trained in being a report technician, so I  
13:18:53 14 don't know exact -- I don't know everything that  
13:18:53 15 they do once we give over the paperwork.

13:18:56 16 Q. What information would you need to  
13:18:58 17 receive from the report technician before having  
13:19:02 18 Mr. Kistner searched?

13:19:05 19 MS. HUGGINS: Form.

13:19:06 20 THE WITNESS: We would just -- no  
13:19:07 21 information. We would just -- they would -- if he  
13:19:08 22 had a warrant or something we weren't aware of,  
13:19:11 23 they would put that on -- on the paperwork, but all

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13:19:14 1 they do is just give us our paperwork back once  
13:19:17 2 they entered it.

13:19:18 3 BY MR. DAVENPORT:

13:19:18 4 Q. Okay. Did you receive any sort of  
13:19:20 5 paperwork from the report technician before  
13:19:23 6 Mr. Kistner was searched?

13:19:24 7 A. No, we just get a copy of our arrest  
13:19:26 8 form and we go back.

13:19:27 9 Q. Now, when you say go back, are you  
13:19:30 10 talking about ECMC?

13:19:31 11 A. No. I'm sorry. We go back to the room  
13:19:33 12 with the cellblock attendants where they do  
13:19:36 13 fingerprinting, mug shots, and search.

13:19:39 14 Q. Okay. Where is that room in relation  
13:19:42 15 to the report technician who I think you described  
13:19:46 16 as being behind a window?

13:19:47 17 A. Uh-huh.

13:19:48 18 Q. Where is that search room in relation  
13:19:51 19 to it?

13:19:52 20 MS. HUGGINS: Form. She needs a yes or no.

13:19:55 21 THE WITNESS: Yes. It's down the hall to  
13:19:57 22 the left through another door.

13:19:58 23 BY MR. DAVENPORT:

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13:19:59 1 Q. Okay. Did you go with Mr. Kistner to  
13:20:01 2 that search room?

13:20:02 3 A. I would have went to the search room.  
13:20:06 4 I don't recall which one of us stayed in the search  
13:20:09 5 room, because typically one of us goes through to  
13:20:13 6 do the arrest paperwork while the person is being  
13:20:16 7 processed.

13:20:16 8 One of us will stay with the prisoner. One  
13:20:16 9 of us will do paperwork. So somebody always has to  
13:20:20 10 stay with the prisoner, but I just don't know which  
13:20:22 11 one of us had done that.

13:20:24 12 Q. Okay. Do you know what sort of a  
13:20:27 13 search Mr. Kistner received when he was at central  
13:20:30 14 booking?

13:20:30 15 A. I am in the room, but I'm behind a  
13:20:34 16 curtain. The men search males, so I'm not certain  
13:20:37 17 exactly what they did.

13:20:41 18 Q. Now, is that decision of what type of a  
13:20:44 19 search they'll receive, is that decision made by  
13:20:47 20 the cell block attendants?

13:20:49 21 MS. HUGGINS: Form.

13:20:50 22 THE WITNESS: I'm not trained, they have  
13:20:53 23 their own training, they know the extent of the

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13:20:56 1 search that they're allowed to do.

13:20:58 2 BY MR. DAVENPORT:

13:20:59 3 Q. I guess my question is do police  
13:21:02 4 officers ever give their input for what type of a  
13:21:05 5 search an individual should receive?

13:21:07 6 A. No, I don't. I don't know what other  
13:21:10 7 officers may or may not do, but I -- I don't.

13:21:11 8 Q. Do you know what Mr. Kistner was  
13:21:14 9 charged with on January 1st of 2017?

13:21:15 10 A. I do.

13:21:16 11 Q. What was he charged with?

13:21:18 12 A. Criminal mischief and disorderly  
13:21:21 13 conduct, I believe.

13:21:21 14 Q. Did you and Ms. McDermott know that  
13:21:24 15 prior to arriving at central booking what he would  
13:21:28 16 be charged with?

13:21:29 17 A. Yes.

13:21:29 18 Q. Okay. Based on those charges, what  
13:21:31 19 type of a search would an individual receive?

13:21:34 20 MS. HUGGINS: Form. You can answer.

13:21:35 21 THE WITNESS: Again, based on my experience,  
13:21:38 22 I'm not a cellblock attendant, it's the same search  
13:21:42 23 for -- from what I've seen with females. It's the

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13:21:45 1 same search they receive every time.

13:21:48 2           Regardless of the charges, it's procedural,  
13:21:48 3 but I'm not trained. I'm not a trained cellblock  
13:21:53 4 attendant, so I don't know what their policy and  
13:21:55 5 procedure is.

13:21:56 6           BY MR. DAVENPORT:

13:21:56 7           Q.     So what sort of a search is it that  
13:22:00 8 individuals receive? You're saying it's  
13:22:00 9 consistent, so what type of search is that?

13:22:01 10          A.     For the females that I've observed,  
13:22:04 11 strip search.

13:22:05 12          Q.     Okay. And you have no reason to think  
13:22:08 13 that males are not also subjected to strip search?

13:22:12 14          MS. HUGGINS: Form.

13:22:12 15          THE WITNESS: I'm not certain.

13:22:14 16          BY MR. DAVENPORT:

13:22:14 17          Q.     Okay. And that's for every sort of  
13:22:17 18 arrest where a person is being booked?

13:22:19 19          A.     Every arrest I've taken down that's a  
13:22:21 20 female that I've observed it was the same search.

13:22:25 21          Q.     Would that be -- is an individual taken  
13:22:27 22 to central booking if they have a misdemeanor?

13:22:30 23          A.     Yes.

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13:22:30 1 Q. And they still receive a strip search?

13:22:34 2 A. Every arrest I've taken down for  
13:22:36 3 females that I've observed it's always been the  
13:22:39 4 same search.

13:22:40 5 Q. And that's even if they are going to be  
13:22:44 6 released on an appearance ticket?

13:22:45 7 A. For the ones that I've been present  
13:22:49 8 for, yes.

13:22:49 9 Q. Okay. There are no exceptions to an  
13:22:55 10 individual not receiving a strip search?

13:22:57 11 MS. HUGGINS: Form.

13:22:58 12 THE WITNESS: That would be, again, with the  
13:23:01 13 cellblock attendants and their training and their  
13:23:04 14 policy and procedures.

13:23:05 15 BY MR. DAVENPORT:

13:23:05 16 Q. But no arrests that you have personally  
13:23:08 17 made?

13:23:08 18 A. Could you repeat that?

13:23:10 19 Q. So no arrests that you have personally  
13:23:11 20 made where there was an exception why an individual  
13:23:13 21 who was brought to central booking did not receive  
13:23:15 22 a strip search?

13:23:15 23 MS. HUGGINS: Form. You may answer.

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13:23:22 1 THE WITNESS: Not that I could recall.

13:23:23 2 BY MR. DAVENPORT:

13:23:23 3 Q. Okay. How many arrests have you made

13:23:26 4 during your career?

13:23:28 5 A. I don't recall a specific number.

13:23:30 6 Q. Is it more than a hundred?

13:23:31 7 A. Yes.

13:23:32 8 Q. Okay. Is it more than 200?

13:23:35 9 A. Possibly.

13:23:35 10 Q. Okay. I'm going to show you what has

13:23:41 11 been marked as Exhibit A -- 8. I'm sorry.

13:23:41 12 A. It's okay.

13:23:51 13 Q. Do you recognize this document?

13:23:56 14 A. No.

13:23:57 15 Q. Okay. Do you see where individuals

13:24:06 16 listed as Slamba, Buyers, Pinkston, and Borsaleri,

13:24:14 17 do you see where that section is? It's in the

13:24:17 18 middle, in the very middle of the page.

13:24:24 19 A. Yes.

13:24:24 20 Q. Okay. Do you know a Joseph Slamba?

13:24:28 21 A. No.

13:24:29 22 Q. Okay. Do you know a Joseph Buyers?

13:24:31 23 A. As I said before, the name is familiar,

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13:24:34 1 but I'm not certain who that is.

13:24:36 2 Q. Okay. Do you know an individual  
13:24:41 3 cellblock attendant named Pinkston?

13:24:45 4 A. No.

13:24:46 5 Q. Do you know an individual cellblock  
13:24:48 6 attendant with the last name of Borsaleri?

13:24:51 7 A. No.

13:24:51 8 Q. Okay. So I'm going to show you what's  
13:25:04 9 been marked as Exhibit 21. Do you recognize that  
13:25:11 10 document?

13:25:11 11 A. Yes.

13:25:12 12 Q. And what do you recognize it to be?

13:25:14 13 A. An -- an appearance ticket.

13:25:15 14 Q. Okay. So do you see the time that's  
13:25:23 15 listed as 1600 with PM circled?

13:25:28 16 A. Yes.

13:25:28 17 Q. Okay. And that would be referring to  
13:25:32 18 4:00 p.m., correct?

13:25:33 19 A. Yes.

13:25:50 20 Q. So turning back to Exhibit 4A.

13:25:55 21 A. What's 4A?

13:25:58 22 Q. So that one, yes, okay. Do you see  
13:26:04 23 where the location change for ECMC was made at

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13:26:10 1 4:36:51 towards the bottom of the page?

13:26:15 2 A. Yes.

13:26:15 3 Q. And 4:36:55 for you?

13:26:18 4 A. Yes.

13:26:18 5 Q. Okay. So now -- oh, excuse me. So

13:26:29 6 turning back towards Exhibit 21, when it says

13:26:33 7 1600 p.m., before that it says committed at 37

13:26:40 8 Schmarbeck on the 1st day of January of 2017 and

13:26:44 9 then it says at 4:00 p.m.; do you see that?

13:26:47 10 A. Yes.

13:26:48 11 Q. Okay. All right. So is that in  
13:26:51 12 reference to what time the crime was committed?

13:26:56 13 A. I'm not certain why they put 1600 on  
13:27:00 14 there.

13:27:00 15 Q. Okay. Would you or Ms. McDermott have  
13:27:03 16 given that information to whoever issued the  
13:27:06 17 appearance ticket?

13:27:07 18 MS. HUGGINS: Form.

13:27:07 19 THE WITNESS: I'm not certain who would have  
13:27:10 20 given that information.

13:27:10 21 BY MR. DAVENPORT:

13:27:11 22 Q. Okay. Do you believe that the time is  
13:27:15 23 incorrect at 1600 p.m. for when the crime was

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13:27:20 1 committed?

13:27:20 2 A. Yes.

13:27:20 3 Q. Okay. Now, it looks like the issuing  
13:27:27 4 officer for the appearance ticket was Lieutenant D.  
13:27:32 5 Banazek; do you see that?

13:27:37 6 A. I see where the issuing officer is,  
13:27:39 7 that's not legible.

13:27:42 8 Q. Okay. Do you know an individual by the  
13:27:44 9 name of Lieutenant Banazek?

13:27:46 10 A. Yes.

13:27:47 11 Q. Okay. And who is that?

13:27:49 12 A. Lieutenant Banazek was the lieutenant  
13:27:53 13 from -- that was working in central booking.

13:27:56 14 Q. Okay. Did he have any other  
13:27:58 15 assignments besides central booking at that time?

13:28:01 16 A. I -- I don't know.

13:28:03 17 Q. Have you ever spoken to Lieutenant  
13:28:06 18 Banazek before?

13:28:06 19 A. Yes.

13:28:07 20 Q. Okay. And in what situations have you  
13:28:12 21 spoken to Lieutenant Banazek?

13:28:14 22 A. While he was down in central booking if  
13:28:17 23 we had questions regarding -- if I had questions

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13:28:20 1 regarding paperwork or anything of that nature with  
13:28:23 2 the booking process, I would defer to him, because  
13:28:26 3 he was a lieutenant.

13:28:27 4 Q. What sorts of issues would you have  
13:28:29 5 with paperwork, would it be penal statutes or, you  
13:28:34 6 know, I guess, what sorts of questions would you  
13:28:36 7 ask of this lieutenant at central booking?

13:28:39 8 A. It depends. It could vary, it could be  
13:28:40 9 paperwork, it could be a situation, correct  
13:28:43 10 charges.

13:28:43 11 Q. Okay. What other sorts of paperwork  
13:28:47 12 would you typically fill out at central booking?

13:28:51 13 A. We just turn in our 163, the report  
13:28:55 14 technicians complete the documentation for us.

13:28:59 15 Q. And, I'm sorry, what does a 163 refer  
13:29:02 16 to?

13:29:03 17 A. The arrest form.

13:29:05 18 Q. Okay. Do you give that 163 arrest form  
13:29:16 19 to central booking after it's completed?

13:29:19 20 A. Yes.

13:29:19 21 Q. Okay. And then do you know who central  
13:29:23 22 booking takes that arrest form to?

13:29:25 23 A. As I explained, when we come in for the

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13:29:28 1 arrest process, we give it to the -- at the window.  
13:29:30 2 And then that report technician makes a copy, gives  
13:29:34 3 us the copy so we can complete the booking process  
13:29:37 4 with the prisoner.

13:29:38 5 And then a second copy goes back to the  
13:29:40 6 report technicians who complete our court  
13:29:43 7 documentation, our complaints, the rest of the  
13:29:45 8 forms that need to be completed for the court file.

13:29:47 9 Q. Okay. After those forms are completed,  
13:29:50 10 would the arresting officer sign off on those  
13:29:53 11 criminal complaint documents?

13:29:55 12 A. If they're the complainant on it, if  
13:29:58 13 the State of New York is the complainant on it, if  
13:30:00 14 we're the complainant on it, then yes.

13:30:01 15 Q. Okay. If an individual who is not a  
13:30:04 16 police officer is the complainant, they would sign  
13:30:06 17 off on the arrest forms or criminal complaint  
13:30:07 18 forms?

13:30:07 19 A. If they were present, if they came down  
13:30:09 20 to central booking, they can sign. At one time we  
13:30:12 21 could sign on information and belief, so we would  
13:30:13 22 sign on -- on behalf of them if they gave us a  
13:30:17 23 supporting deposition that said we want to be a

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13:30:19 1 complaint, they're just not present. So those are  
13:30:22 2 the times we would sign. I'm sorry.

13:30:25 3 Q. Okay. Now, do you see underneath zip  
13:30:40 4 code on the appearance ticket where it says  
13:30:43 5 records? It's directly above part two that's  
13:30:48 6 underlined and bolded; do you see that?

13:30:49 7 A. Yes.

13:30:50 8 Q. What is that referring to?

13:30:54 9 A. What part of it are you referring to  
13:30:58 10 that is referring to?

13:30:59 11 Q. Well, there's records that is written  
13:31:02 12 underneath zip code and directly above part two  
13:31:06 13 which is underlined and bolded. Do you know why  
13:31:10 14 records would be written in that section?

13:31:13 15 A. I did not create this document. I -- I  
13:31:16 16 don't know.

13:31:16 17 Q. Okay. Now, you were a passenger with  
13:31:48 18 Ms. McDermott on January 1st of 2017, correct?

13:31:51 19 A. Yes.

13:31:52 20 Q. Were you a passenger at the time that  
13:31:55 21 the car and Mr. Kistner collided with each other?

13:31:59 22 MS. HUGGINS: Form. You may answer.

13:32:00 23 THE WITNESS: I was in the passenger's side

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13:32:02 1 during the incident.

13:32:03 2 BY MR. DAVENPORT:

13:32:03 3 Q. Okay. Did you see that incident?

13:32:05 4 A. I did not.

13:32:06 5 Q. Okay. So you didn't see the car make

13:32:11 6 contact with Mr. Kistner?

13:32:11 7 MS. HUGGINS: Form. You may answer.

13:32:13 8 THE WITNESS: I did not see Mr. Kistner make

13:32:16 9 contact with the car.

13:32:16 10 THE REPORTER: I'm sorry?

13:32:16 11 THE WITNESS: I did not see Mr. Kistner make

13:32:18 12 contact with the car.

13:32:18 13 BY MR. DAVENPORT:

13:32:18 14 Q. Did Ms. McDermott tell you that she saw

13:32:21 15 the incident, the collision with Mr. Kistner in the

13:32:25 16 vehicle?

13:32:25 17 A. She did.

13:32:26 18 Q. Okay. And what did she tell you?

13:32:29 19 A. She told me that Mr. Kistner had -- I

13:32:32 20 can't remember if she said threw himself or put

13:32:35 21 himself into the mirror of the car.

13:32:38 22 Q. Okay. Did you happen to observe what

13:32:41 23 the mirror looked like on the driver's side of that

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13:32:45 1 vehicle after the collision?

13:32:46 2 A. I did.

13:32:46 3 Q. Okay. And how did it appear to you?

13:32:48 4 A. That it was dislodged from the body of  
13:32:51 5 the car.

13:32:52 6 Q. Now, when you say dislodged, was it  
13:32:55 7 still attached but it was partially detached from  
13:32:59 8 the car?

13:32:59 9 A. Yes.

13:32:59 10 Q. Okay. So it -- it was still there on  
13:33:03 11 the car, it hadn't fallen off completely, correct?

13:33:07 12 A. Correct.

13:33:07 13 Q. Okay. Was there any damage to the  
13:33:09 14 glass on that mirror?

13:33:12 15 A. The glass itself was not damaged.

13:33:16 16 Q. Okay. Did you try to use or did  
13:33:24 17 Ms. McDermott try to use the window on the driver's  
13:33:27 18 side of that vehicle that day?

13:33:29 19 A. She did.

13:33:29 20 Q. Okay. Were you present when she tried  
13:33:32 21 to use the window?

13:33:33 22 A. Yes.

13:33:33 23 Q. Okay. Did it make any sort of a

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13:33:37 1 screeching sound or anything like that?

13:33:40 2 A. It did, it -- it made a noise and it  
13:33:42 3 like wiggled and hesitated to go up and down.

13:33:45 4 Q. Okay. What car were you driving that  
13:33:47 5 day?

13:33:47 6 A. I wasn't driving that day.

13:33:49 7 Q. Excuse me. What car were you a  
13:33:51 8 passenger in that day?

13:33:53 9 A. I believe it was 473.

13:33:55 10 Q. Okay. Did you and Ms. McDermott have a  
13:33:57 11 specific vehicle that you liked to use?

13:34:00 12 A. She had -- she preferred 473. I  
13:34:05 13 preferred 472.

13:34:06 14 Q. Okay. Was there any reason why car 473  
13:34:11 15 was used on the day of the incident?

13:34:14 16 A. Availability.

13:34:14 17 Q. Okay. Did you use car 473 again after  
13:34:18 18 January 1st of 2017?

13:34:19 19 A. I'm sure we did. If Officer McDermott  
13:34:22 20 was driving, she -- she would drive that car.

13:34:25 21 Q. Okay. Do you recall when your next  
13:34:27 22 shift would have been after January 1st of 2017?

13:34:29 23 A. I don't recall.

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13:34:31 1 Q. Okay. Would it have been before  
13:34:36 2 January 5th of 2017?

13:34:40 3 A. It would have. Well, if January 1 was  
13:34:44 4 our last day, the most we could have been off was  
13:34:48 5 for four days, so then we would have been back.

13:34:51 6 So if -- if January 1 was our last day,  
13:34:55 7 because I don't recall, we would have been -- the  
13:34:55 8 most we -- the longest we could have been off was  
13:34:56 9 the 2nd, 3rd, 4th, 5th.

13:35:00 10 So the earliest would have been January 6th  
13:35:03 11 or 5th, if we were off for three.

13:35:06 12 Q. Okay. Do you know when the next time  
13:35:08 13 would have been that you would use car 473?

13:35:11 14 A. No.

13:35:11 15 Q. Okay. Do you recall if the next time  
13:35:13 16 that you used car 473 did it have a dislodged  
13:35:17 17 mirror or were there any issues with the driver's  
13:35:20 18 side window?

13:35:20 19 A. I don't recall.

13:35:21 20 Q. Okay. Do you recall ever driving the  
13:35:23 21 vehicle again where it had a dislodged mirror or  
13:35:27 22 issues with the driver's side window?

13:35:28 23 A. I don't recall driving 473 at all.

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13:35:31 1 Like I said, I would prefer to drive 472, but I  
13:35:35 2 don't recall being in that vehicle in -- with an  
13:35:39 3 issue.

13:35:39 4 Like I don't recall after that incident when  
13:35:41 5 was the next time we had taken that vehicle. I  
13:35:44 6 don't recall.

13:35:44 7 Q. Do you recall ever being in a police  
13:35:47 8 vehicle where the driver's side mirror was  
13:35:50 9 dislodged or the driver's side window had issues  
13:35:53 10 with going up and down?

13:35:55 11 MS. HUGGINS: Form. You can answer.

13:35:57 12 THE WITNESS: I've driven vehicles that have  
13:35:59 13 had issues with windows before.

13:36:02 14 BY MR. DAVENPORT:

13:36:02 15 Q. And what sort of issues were those?

13:36:05 16 A. I had one that the window wouldn't go  
13:36:08 17 down before.

13:36:09 18 Q. But you were never in a vehicle where  
13:36:13 19 the window would make noises as it was going down,  
13:36:17 20 correct?

13:36:17 21 A. Correct.

13:36:17 22 Q. Okay. Do you recall what car you were  
13:36:19 23 driving when the window would not go down?

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13:36:24 1 A. It may have been a Crown Vic, a Crown  
13:36:28 2 Victoria, the old model car we had, because we had  
13:36:31 3 some that were very old.

13:36:33 4 Q. Okay. Now, on the day of the incident  
13:36:36 5 did you make any sort of an estimation as to how  
13:36:40 6 much damage was caused to car 473 by this incident?

13:36:44 7 A. I did not.

13:36:45 8 Q. Okay. Would you agree or disagree that  
13:36:47 9 it was more than \$250 worth of damage to the  
13:36:50 10 vehicle?

13:36:51 11 MS. HUGGINS: Form. You can answer.

13:36:52 12 THE WITNESS: I'm not a professional, I -- I  
13:36:54 13 would not know.

13:36:55 14 BY MR. DAVENPORT:

13:36:55 15 Q. On the day of the incident did you  
13:36:57 16 believe is that it was more than \$250 worth of  
13:37:01 17 damage to the vehicle?

13:37:02 18 A. Based on the information that was given  
13:37:04 19 to me by Officer McDermott on the damage and the  
13:37:08 20 charges that she signed on, yes.

13:37:10 21 Q. But that wasn't based off of your  
13:37:12 22 personal observation of the damage to the vehicle?

13:37:14 23 A. I can't estimate that. I don't know

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13:37:17 1 how much that would cost.

13:37:18 2 Q. Do you know if Ms. McDermott can make  
13:37:21 3 that estimation?

13:37:21 4 A. You would have to ask Officer  
13:37:21 5 McDermott.

13:37:21 6 Q. Is she trained on how to make those  
13:37:25 7 estimations?

13:37:25 8 A. You would have to ask Officer  
13:37:25 9 McDermott.

13:37:28 10 Q. Are you trained on how to make those  
13:37:29 11 estimations?

13:37:29 12 A. I am not.

13:37:30 13 Q. Okay. Are any police officers trained  
13:37:32 14 on how to make those estimations?

13:37:35 15 A. I don't know.

13:37:36 16 Q. Okay. I'm going to show you what's  
13:37:37 17 been marked as Exhibit 18. Do you recognize this  
13:37:45 18 document?

13:37:48 19 A. I've -- no, I haven't seen one of  
13:37:51 20 these.

13:37:53 21 Q. Do you see where it's written  
13:37:56 22 underneath fleet management what is written?

13:37:58 23 A. Yes.

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13:37:59 1 Q. What's written?

13:38:00 2 A. Maintenance work order.

13:38:02 3 Q. Okay. Do you have any reason to  
13:38:04 4 dispute that this is a maintenance work order?

13:38:06 5 A. No.

13:38:07 6 Q. Do you have any reason to dispute that  
13:38:10 7 this is a maintenance work order that was made and  
13:38:12 8 created by the City of Buffalo?

13:38:14 9 MS. HUGGINS: Form.

13:38:14 10 THE WITNESS: It has a seal on it, no.  
13:38:17 11 Again, no.

13:38:18 12 BY MR. DAVENPORT:

13:38:18 13 Q. Okay. Now, looking at this for the  
13:38:24 14 vehicle information, what car was fixed according  
13:38:27 15 to this maintenance work order?

13:38:30 16 A. This has unit 473 on it.

13:38:33 17 Q. Okay. And what was the date of  
13:38:36 18 service?

13:38:37 19 A. 1/5 of '17.

13:38:39 20 Q. Okay. And on the day of the incident  
13:38:42 21 you and Ms. McDermott were driving car 473,  
13:38:46 22 correct?

13:38:46 23 A. Officer McDermott was driving. I was

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13:38:48 1 in the passenger's side, yes.

13:38:50 2 Q. But you and Officer McDermott were in  
13:38:52 3 car 473?

13:38:54 4 A. On January 1st, 2017, yes.

13:38:56 5 Q. Okay. And this is also the car that  
13:38:59 6 Ms. McDermott alleged in her criminal complaint  
13:39:02 7 that Mr. Kistner caused more than \$250 worth of  
13:39:07 8 damage to?

13:39:07 9 A. Yes.

13:39:09 10 Q. By intentionally throwing himself at  
13:39:12 11 the police vehicle?

13:39:12 12 A. Yes.

13:39:13 13 Q. Okay. Do you see where it says service  
13:39:15 14 underneath the service date?

13:39:16 15 A. Yes.

13:39:16 16 Q. And what does that say?

13:39:18 17 A. Cooling system.

13:39:19 18 Q. Does that in any way refer to the  
13:39:22 19 mirror on the driver's side or the window on the  
13:39:26 20 driver's side of car 473?

13:39:27 21 MS. HUGGINS: Form.

13:39:27 22 THE WITNESS: I have no idea what a cooling  
13:39:29 23 system is. There's no word window there, no mirror

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13:39:35 1 there.

13:39:35 2 BY MR. DAVENPORT:

13:39:36 3 Q. But you have no reason to believe that  
13:39:38 4 that would refer to the window on the driver's side  
13:39:40 5 of the vehicle or the window on the driver's side,  
13:39:43 6 correct?

13:39:43 7 MS. HUGGINS: Form.

13:39:43 8 THE WITNESS: Again, I'm not a vehicle  
13:39:45 9 maintenance worker and this says cooling system.

13:39:47 10 BY MR. DAVENPORT:

13:39:48 11 Q. Okay. Now, do you see where it says  
13:39:50 12 remarks are, slash are water pump, and then serp  
13:39:56 13 period belt; do you see that?

13:39:57 14 A. Yes.

13:39:58 15 Q. Now, does that in any way refer to the  
13:40:03 16 driver's side mirror or the driver's side window?

13:40:06 17 MS. HUGGINS: Form. You can answer.

13:40:09 18 THE WITNESS: It doesn't say window or  
13:40:11 19 mirror here, but it says water pump. And I don't  
13:40:14 20 know what a serp belt is or what RR means.

13:40:18 21 BY MR. DAVENPORT:

13:40:18 22 Q. Do you see where it's listed as cost  
13:40:21 23 underneath the service information?

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13:40:23 1 A. Yes.

13:40:24 2 Q. And do you see where that is listed as  
13:40:26 3 blank?

13:40:27 4 A. Yes.

13:40:27 5 Q. So is it fair to say that no estimate  
13:40:30 6 was ever made by the City of Buffalo as to the cost  
13:40:33 7 of the damage caused by Mr. Kistner on January 1st  
13:40:37 8 of 2017?

13:40:37 9 MS. HUGGINS: Form.

13:40:37 10 THE WITNESS: I don't know if an estimate  
13:40:39 11 was ever done.

13:40:40 12 BY MR. DAVENPORT:

13:40:41 13 Q. Now, as part of the burden of proof for  
13:40:46 14 a criminal complaint, that's beyond a reasonable  
13:40:49 15 doubt, correct?

13:40:49 16 MS. HUGGINS: Form.

13:40:50 17 THE WITNESS: For a criminal complaint?

13:40:52 18 BY MR. DAVENPORT:

13:40:53 19 Q. Yes.

13:40:53 20 A. Yes.

13:40:54 21 Q. Okay. What sorts of evidence would you  
13:40:57 22 use to accuse somebody of causing \$250 worth of  
13:41:01 23 damage to a vehicle?

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13:41:02 1 MS. HUGGINS: Form.

13:41:03 2 THE WITNESS: Well, we have at the time  
13:41:05 3 probable cause to make the arrest. Following  
13:41:09 4 the -- the District Attorney's office, we would  
13:41:12 5 follow -- we would conference with them to  
13:41:14 6 determine what documents would be needed.

13:41:16 7 BY MR. DAVENPORT:

13:41:18 8 Q. At any time did the District Attorney  
13:41:19 9 tell you what sort of documents were needed in  
13:41:22 10 order to sustain a beyond a reasonable doubt  
13:41:25 11 standard?

13:41:26 12 A. I don't recall ever meeting with the  
13:41:29 13 District Attorney.

13:41:29 14 Q. Do you recall ever speaking with  
13:41:29 15 Ms. McDermott to know if she ever met with the  
13:41:31 16 District Attorney?

13:41:31 17 A. No.

13:41:34 18 Q. Were you or Ms. McDermott ever present  
13:41:38 19 for any of the criminal proceedings against  
13:41:40 20 Mr. Kistner?

13:41:41 21 A. I don't recall being present. I don't  
13:41:43 22 know if Officer McDermott was.

13:41:48 23 Q. Now, looking at this information, do

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13:41:59 1 you recall if car 473 had any issues with the  
13:42:03 2 cooling system prior to January 5th of 2017?

13:42:08 3 A. I don't recall.

13:42:08 4 Q. Okay. Did it have any issues with the  
13:42:11 5 cooling system on January 1st of 2017?

13:42:14 6 A. I don't recall.

13:42:15 7 Q. Do you know what the cooling system  
13:42:17 8 refers to?

13:42:17 9 A. I don't.

13:42:18 10 Q. Okay. Now, as a lieutenant, are you  
13:42:26 11 involved at all in the repair and maintenance of  
13:42:28 12 the vehicles in your fleet?

13:42:31 13 A. Involved in the repair and maintenance,  
13:42:33 14 no.

13:42:33 15 Q. Are you involved in the status of the  
13:42:36 16 repair of those vehicles in your fleet?

13:42:38 17 A. As a lieutenant, I follow up, because  
13:42:41 18 we have such a shortage of cars. So the extent of  
13:42:46 19 my follow-up is to find out when they're going to  
13:42:49 20 be available again for service.

13:42:51 21 Q. Okay. If a police officer came to you  
13:42:53 22 and told you that the window was malfunctioned and  
13:42:57 23 the mirror was dislodged from a police vehicle,

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13:43:01 1 would you have that police officer send it in for  
13:43:03 2 service?

13:43:04 3 A. It's situational.

13:43:05 4 Q. Would you have a police officer drive a  
13:43:08 5 police vehicle if a mirror was dislodged from that  
13:43:12 6 vehicle?

13:43:12 7 A. They -- it depends on the type of  
13:43:16 8 damage that's done to it, is it functional.

13:43:20 9 Q. What sorts of mirrors that are  
13:43:23 10 dislodged from a police vehicle are still  
13:43:26 11 functional?

13:43:26 12 A. If it --

13:43:26 13 MS. HUGGINS: Form. You can answer.

13:43:28 14 THE WITNESS: If the mirror is still  
13:43:30 15 attached and you can see out the mirror. But as I  
13:43:33 16 said before, we have such a shortage of vehicles or  
13:43:36 17 even if the vehicle has to be driven down to the  
13:43:39 18 garage for a repair, if they can safely get there  
13:43:39 19 and the mirror is functional and can serve its  
13:43:42 20 purpose even though it's broken, they can still  
13:43:44 21 operate it.

13:43:45 22 BY MR. DAVENPORT:

13:43:45 23 Q. So besides driving that vehicle to the

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13:43:48 1 service garage, you would allow that officer to go  
13:43:53 2 out on patrol with a dislodged mirror?

13:43:53 3 A. Again, it's situational. If the mirror  
13:43:55 4 is functional, it could be dislodged, it could even  
13:43:56 5 be broken and still functioning.

13:43:59 6 Q. Just so that I'm clear, what does  
13:44:01 7 dislodged mean to you?

13:44:03 8 A. That it's off track or broken off of  
13:44:06 9 where it should be completely attached.

13:44:09 10 Q. So does dislodged mean that -- well, in  
13:44:15 11 specific to this mirror on car 473 on January 1st  
13:44:19 12 of 2017, was it dislodged where it was angled  
13:44:22 13 downward or upward or was it dislodged where it was  
13:44:25 14 angled towards the car or away from the car?

13:44:28 15 MS. HUGGINS: Form.

13:44:29 16 THE WITNESS: I don't recall.

13:44:29 17 BY MR. DAVENPORT:

13:44:29 18 Q. Okay. Assuming that this mirror was  
13:44:35 19 dislodged, would you agree that the view that a  
13:44:41 20 driver would have out of that driver's side mirror  
13:44:44 21 would be distorted?

13:44:46 22 A. Depending --

13:44:46 23 MS. HUGGINS: Form. You can answer.

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13:44:48 1 THE WITNESS: It's depending on the way it  
13:44:50 2 was dislodged, depending on how it was or as you  
13:44:53 3 had described which angle it was at.

13:44:53 4 BY MR. DAVENPORT:

13:44:53 5 Q. Would --

13:44:55 6 A. Like I said, it could be dislodged and  
13:44:58 7 still functioning.

13:44:59 8 Q. Would any of the angles that I  
13:45:02 9 discussed have a mirror that's dislodged where the  
13:45:05 10 view would not be distorted for the driver?

13:45:08 11 MS. HUGGINS: Form.

13:45:09 12 THE WITNESS: It depends.

13:45:15 13 BY MR. DAVENPORT:

13:45:16 14 Q. Assuming that a police officer has  
13:45:20 15 reported to you that their mirror is dislodged on  
13:45:23 16 their police vehicle, how long would you allow that  
13:45:27 17 police officer to drive with a dislodged mirror?

13:45:29 18 MS. HUGGINS: Form. You can answer.

13:45:31 19 THE WITNESS: If the garage is open, I would  
13:45:33 20 prefer the vehicle be taken immediately down and  
13:45:36 21 let's get this vehicle fixed in a reasonable amount  
13:45:37 22 of time.

13:45:37 23 BY MR. DAVENPORT:

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13:45:39 1 Q. When is the garage not open?

13:45:41 2 A. Holidays, weekends, occasionally now  
13:45:45 3 because we have such a shortage of vehicle, they  
13:45:50 4 can be open on a Saturday, but typically regular  
13:45:50 5 business hours Monday through Friday.

13:45:52 6 Q. And regular business hours would refer  
13:45:54 7 to 9:00 a.m. to 5:00 p.m.?

13:45:56 8 A. Sometimes it's earlier. I believe  
13:45:58 9 sometimes the garage opens at 7, maybe 7, and I  
13:46:02 10 don't recall how late they stay.

13:46:04 11 Q. Okay. Was there any reason to believe  
13:46:07 12 that the garage was closed prior to January 5th of  
13:46:11 13 2017 and after January 1st of 2017?

13:46:14 14 MS. HUGGINS: Form. You can answer.

13:46:15 15 THE WITNESS: I don't know.

13:46:27 16 BY MR. DAVENPORT:

13:46:27 17 Q. So I'm going to show you what has been  
13:46:31 18 marked as Exhibit 17. Do you recognize that  
13:46:36 19 document?

13:46:36 20 A. Yes.

13:46:37 21 Q. Okay. And what do you recognize it to  
13:46:40 22 be?

13:46:40 23 A. Information and complaint.

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13:46:42 1 Q. Okay. Who was the criminal complainant  
13:46:50 2 for this criminal complaint?

13:46:52 3 A. Can you repeat that?

13:46:54 4 Q. Who was the complainant for this  
13:46:57 5 criminal complaint?

13:46:58 6 A. Officer McDermott.

13:46:59 7 Q. And why would she have been the  
13:47:03 8 complainant for this criminal complaint?

13:47:05 9 A. She was the officer who was signing on  
13:47:07 10 the charges.

13:47:08 11 Q. Would you expect that the officer  
13:47:10 12 driving the vehicle would be the criminal  
13:47:13 13 complainant in a situation that transpired on  
13:47:17 14 January 1st of 2017?

13:47:18 15 A. The officer who had witnessed it. She  
13:47:23 16 had witnessed it, so she signed on the charges.

13:47:26 17 Q. Okay. Now, reading underneath criminal  
13:47:33 18 mischief, damages greater than \$250, that's  
13:47:38 19 referring to damages to the police vehicle car 473,  
13:47:44 20 correct?

13:47:44 21 MS. HUGGINS: Form.

13:47:49 22 THE WITNESS: Yes.

13:47:49 23 BY MR. DAVENPORT:

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13:47:50 1 Q. Okay. And would it be safe to say that  
13:47:57 2 that was -- strike that.

13:48:00 3 Let's look underneath criminal mischief in  
13:48:06 4 the third degree in the middle of the page. Do you  
13:48:09 5 see that? It's right underneath -- right after  
13:48:12 6 145.05-2.

13:48:15 7 A. Yes.

13:48:15 8 Q. Okay. So reading that first sentence,  
13:48:18 9 in that the defendant while at 37 Schmarbeck did  
13:48:23 10 with intent to damage the property of another  
13:48:26 11 person, City of Buffalo's Police Department, and  
13:48:29 12 having no right to do so nor any reasonable ground  
13:48:34 13 to believe that he had such right did damage the  
13:48:37 14 property.

13:48:38 15 Now, turning to that first line where it  
13:48:43 16 says intent to damage, do you agree based off of  
13:48:47 17 what you have now seen on the video surveillance  
13:48:51 18 that was provided to you that Mr. Kistner intended  
13:48:54 19 to damage the police vehicle?

13:48:56 20 MS. HUGGINS: Form.

13:48:57 21 THE WITNESS: Yes.

13:48:57 22 BY MR. DAVENPORT:

13:48:57 23 Q. Okay. And just so that way I'm clear

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13:49:01 1 that's based on what you saw on the video, correct?

13:49:05 2 MS. HUGGINS: Form.

13:49:05 3 THE WITNESS: Again, I had two officers

13:49:07 4 describe to me and the video. And based on that,

13:49:11 5 yes.

13:49:11 6 BY MR. DAVENPORT:

13:49:12 7 Q. Well, I'm just asking specifically what

13:49:14 8 you saw on the video you still believe that

13:49:17 9 Mr. Kistner intended to damage the vehicle?

13:49:18 10 A. Well, from --

13:49:18 11 MS. HUGGINS: Form.

13:49:20 12 THE WITNESS: -- the perspective of the

13:49:21 13 video it's very hard to see in my -- my view.

13:49:25 14 BY MR. DAVENPORT:

13:49:25 15 Q. So it's hard to see, but based on what

13:49:28 16 you saw in the -- in the video, do you believe that

13:49:31 17 Mr. Kistner intended to damage the vehicle?

13:49:33 18 A. I believe Mr. --

13:49:34 19 MS. HUGGINS: Form. Are you asking her

13:49:37 20 opinion of -- of the video?

13:49:37 21 MR. DAVENPORT: Yes.

13:49:38 22 MS. HUGGINS: -- after viewing it?

13:49:40 23 Form. You can answer.

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13:49:41 1 THE WITNESS: Like I said, that perspective  
13:49:44 2 of the video and from what I can see it's the  
13:49:47 3 angle -- it's a difficult angle to see the  
13:49:51 4 circumstance, but I believe, yes.

13:49:52 5 BY MR. DAVENPORT:

13:49:52 6 Q. And that's based on what you saw in the  
13:49:54 7 video, correct?

13:49:55 8 A. Yes.

13:49:55 9 MS. HUGGINS: Form.

13:49:57 10 MR. DAVENPORT: Thank you.

13:50:00 11 I'm sorry. Can we take a break really  
13:50:03 12 quick.

13:50:03 13 (Discussion off the record at  
13:50:03 14 1550.)

14:00:28 15 (On the record at 1400.)

14:00:28 16 BY MR. DAVENPORT:

14:00:32 17 Q. So now, Ms. Velez, turning your  
14:00:35 18 attention again to Exhibit 17. It says on here  
14:00:40 19 that in that the defendant did intentionally throw  
14:00:44 20 his body into the driver's side mirror of patrol  
14:00:48 21 vehicle under 473 causing the mirror to become  
14:00:54 22 dislodged from the vehicle and also causing  
14:00:55 23 the -- the defendant -- or also causing the

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14:00:57 1 driver's side window to malfunction; do you see  
14:01:00 2 that?

14:01:00 3 A. Yes.

14:01:00 4 Q. Now, the driver's side window  
14:01:02 5 malfunctioning, what do you recall about the  
14:01:06 6 driver's side window malfunctioning?

14:01:08 7 A. I recall -- I don't exactly remember at  
14:01:12 8 what point during the process of transporting  
14:01:17 9 Mr. Kistner when Officer McDermott went to roll her  
14:01:20 10 window down.

14:01:21 11 I recall her trying to roll her window down  
14:01:23 12 and, like I said, it made a noise and then it was  
14:01:26 13 like hesitating to go down and up.

14:01:29 14 Q. Okay. Do you recall, would that have  
14:01:32 15 been attempted at Schmarbeck?

14:01:34 16 A. I don't recall if it was. I know we  
14:01:40 17 had -- I don't recall if it was when exactly we  
14:01:43 18 were leaving Schmarbeck or to ECMC.

14:01:50 19 Q. So when the incident initially happens,  
14:01:55 20 the only information that you knew or that any of  
14:02:00 21 the officers knew about damage to the vehicle  
14:02:03 22 number 473 was that the mirror, driver's side  
14:02:06 23 mirror was dislodged from the vehicle?

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14:02:07 1 MS. HUGGINS: Form. You may answer.

14:02:09 2 THE WITNESS: Pardon?

14:02:10 3 BY MR. DAVENPORT:

14:02:10 4 Q. When the incident initially happens,  
14:02:13 5 the only damage that you or any of the officers at  
14:02:19 6 the scene knew was that the mirror was dislodged  
14:02:23 7 from vehicle number 473?

14:02:25 8 A. Correct.

14:02:25 9 Q. Okay. Now, on the second page of  
14:02:28 10 Exhibit 17, was that criminal charge for disorderly  
14:02:37 11 conduct?

14:02:37 12 A. Yes, the violation disorderly conduct.

14:02:41 13 Q. Okay. So it's a violation. Now, is  
14:02:44 14 there any reason to include what the value of the  
14:02:48 15 damage to the vehicle was in that criminal  
14:02:52 16 complaint where it says the value of said damage to  
14:02:52 17 exceed \$250?

14:02:55 18 A. This -- these are created by the report  
14:02:59 19 technicians, so that could have just been part of  
14:03:03 20 she's doing page 1, page 2. I'm not certain.

14:03:08 21 Q. Okay. For the disorderly conduct, what  
14:03:12 22 was that criminal charge for? What -- what sort of  
14:03:16 23 criminal conduct did Mr. Kistner do to deserve that

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14:03:16 1 criminal charge?

14:03:17 2 MS. HUGGINS: Form. You may answer.

14:03:20 3 THE WITNESS: From what I recall, this  
14:03:21 4 was -- the disorderly conduct was for his behavior  
14:03:24 5 at the hospital, the disruption that he created.

14:03:27 6 BY MR. DAVENPORT:

14:03:28 7 Q. Was any part of this criminal charge  
14:03:31 8 due to any of the damage that Mr. Kistner caused to  
14:03:35 9 the police vehicle number 473?

14:03:38 10 A. Not that I could recall. Again,  
14:03:42 11 Officer McDermott signed on these charges, so --

14:03:44 12 Q. Sure. Have you ever charged somebody  
14:03:47 13 with disorderly conduct, the violation section  
14:03:51 14 24020, subsection three of the Penal Law of the  
14:03:56 15 State of New York?

14:03:56 16 A. Ever?

14:03:57 17 Q. Yes.

14:03:58 18 A. I don't recall specifics.

14:03:58 19 Q. Okay.

14:04:00 20 A. I may have.

14:04:01 21 Q. Okay. Are you familiar with that  
14:04:03 22 statute?

14:04:04 23 A. Yes.

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14:04:04 1 Q. Okay. If somebody intentionally threw  
14:04:09 2 themselves at a police vehicle, would that be  
14:04:13 3 conduct that would warrant a disorderly conduct  
14:04:17 4 charge under this subsection?

14:04:20 5 A. On a patrol car?

14:04:23 6 Q. Yes.

14:04:24 7 A. It depends. Like it's -- it's  
14:04:28 8 circumstantial. It depends on the totality of  
14:04:30 9 where they are, how it happened, why they did it.

14:04:33 10 Q. So it's possible, then?

14:04:35 11 A. Possible.

14:04:36 12 Q. Okay. I'm going to show you what's  
14:04:48 13 been marked as Exhibit 5. Do you recognize this  
14:04:54 14 document?

14:04:54 15 A. I do.

14:04:55 16 Q. And what do you recognize it to be?

14:04:57 17 A. This is a police report.

14:04:59 18 Q. Okay. Is this referred to any -- by  
14:05:03 19 any other names or identifications?

14:05:06 20 A. Yes, a P1375.

14:05:09 21 Q. Okay. Now, when would this P1375  
14:05:16 22 report have been filled out?

14:05:20 23 A. It could have been filled out -- I

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14:05:23 1 don't know exactly when it was filled out, but it  
14:05:26 2 would typically be done either during the booking  
14:05:33 3 process.

14:05:33 4 While the RTs are completing their  
14:05:33 5 paperwork, we could possibly fill out, because  
14:05:35 6 there's a long form that goes with the -- the paper  
14:05:38 7 version. We would -- we can fill that out or  
14:05:44 8 when -- if there's two officers while transporting,  
14:05:46 9 we can do the paperwork.

14:05:48 10 Or upon completion of the arrest or the  
14:05:51 11 disposition of whatever it was we can complete it  
14:05:54 12 after.

14:05:54 13 Q. When Mr. Kistner was at central  
14:05:58 14 booking, did you know where he would be going next?

14:06:02 15 A. Yes.

14:06:02 16 Q. Where did you know that he was going  
14:06:04 17 to?

14:06:04 18 A. To ECMC.

14:06:07 19 Q. At any point, did you and Ms. McDermott  
14:06:12 20 discuss sending Mr. Kistner to jail as opposed to  
14:06:17 21 ECMC?

14:06:17 22 A. At central booking, I don't recall.  
14:06:20 23 No, once we went to central booking, we knew that

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14:06:25 1 he was going to go back at that point.

14:06:26 2 Q. Okay. So that would have been when you  
14:06:29 3 arrived at central booking that you knew that he  
14:06:33 4 was going to ECMC?

14:06:33 5 A. Correct, we had already knew.

14:06:33 6 Q. Okay. Was that information conveyed to  
14:06:36 7 any of the cellblock attendants?

14:06:38 8 A. I don't recall.

14:06:39 9 Q. Is it part of their job to ask where  
14:06:42 10 that individual would be going next?

14:06:44 11 A. They would have known, I believe, that  
14:06:45 12 he was going to get an appearance ticket, but they  
14:06:46 13 do their own checklist evaluation.

14:06:49 14 So I don't -- I don't know that we told them  
14:06:54 15 that he was going to ECMC afterward. I don't  
14:06:57 16 recall.

14:06:57 17 Q. Okay. At what point do they ask you if  
14:07:01 18 an individual is being given an appearance ticket?

14:07:04 19 MS. HUGGINS: Cellblock attendants?

14:07:04 20 BY MR. DAVENPORT:

14:07:04 21 Q. Cellblock attendants.

14:07:08 22 A. I don't know that they ask. I  
14:07:11 23 don't -- I -- I can't recall them ever asking me

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14:07:13 1 right now if they've ever, if we tell them. I

14:07:17 2 don't -- honestly, I don't recall right now.

14:07:19 3 Q. Okay. Is it possible that this form

14:07:24 4 would have been filled out while you were at ECMC

14:07:27 5 the first time before going to central booking?

14:07:35 6 A. This has to be entered in -- this, the

14:07:37 7 electronic has to be entered in the MCT. So, no,

14:07:43 8 it wouldn't have been done at that time.

14:07:46 9 Q. Is that entered at central booking?

14:07:46 10 A. No, we can enter it either in our

14:07:47 11 patrol car or at the station house.

14:07:49 12 Q. Okay.

14:07:51 13 A. The written form obviously can be

14:07:54 14 completed anywhere, but for it it be entered

14:07:57 15 electronically, which is a requirement, we have to

14:08:00 16 have access to a computer.

14:08:02 17 Q. Okay.

14:08:02 18 A. But we wouldn't do this at central

14:08:06 19 booking and we wouldn't enter it at central

14:08:09 20 booking.

14:08:09 21 Q. Is the information that's in written

14:08:10 22 form transcribed exactly as it appears on written

14:08:11 23 form to this P1375 document?

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14:08:15 1 A. It should be, yes.

14:08:16 2 Q. Okay. And who does that transcription?

14:08:19 3 A. The officer who was typing it in. Like  
14:08:23 4 Officer McDermott and I, when we ride together,  
14:08:26 5 typically whoever is in the passenger's side,  
14:08:27 6 because someone is driving, would do the writing  
14:08:29 7 and the entering.

14:08:30 8 Q. Okay. So it's the officer who makes  
14:08:33 9 the written document also puts it into electronic  
14:08:37 10 form as well?

14:08:37 11 MS. HUGGINS: Form.

14:08:38 12 THE WITNESS: Not necessarily.

14:08:39 13 BY MR. DAVENPORT:

14:08:39 14 Q. Okay.

14:08:39 15 A. A report technician can enter it as  
14:08:39 16 well.

14:08:39 17 Q. Okay.

14:08:43 18 A. Can take the written form and enter it  
14:08:45 19 as well.

14:08:45 20 Q. Okay. So in your experience you have  
14:08:48 21 done a written form and then handed it to a report  
14:08:51 22 technician and then they've entered it into  
14:08:54 23 electronic form?

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14:08:55 1 A. Yes.

14:08:55 2 Q. Okay. Do you know if that was done on  
14:08:58 3 this occasion on January 1st of 2017?

14:09:00 4 A. I don't recall.

14:09:00 5 Q. Okay. Do you recall if either you or  
14:09:02 6 Ms. McDermott filled out the written form for the  
14:09:06 7 P1375 report?

14:09:06 8 A. I filled out the written form.

14:09:08 9 Q. You did. Okay. Did you also fill out  
14:09:11 10 the electronic form?

14:09:12 11 A. I don't recall.

14:09:13 12 Q. Okay. Would it have either been you,  
14:09:19 13 Ms. McDermott, or the report technician?

14:09:21 14 A. Correct.

14:09:21 15 Q. Okay. I'm going to show you what's  
14:09:40 16 been marked as Exhibit 9. Do you recognize this  
14:09:45 17 document?

14:09:46 18 A. Yes.

14:09:46 19 Q. And what do you recognize it to be?

14:09:48 20 A. The case history.

14:09:52 21 Q. Now, which officer signed on this case  
14:09:57 22 history form?

14:09:59 23 A. This looks like Officer McDermott.

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14:10:04 1 Q. Do you have any recollection of you  
14:10:07 2 signing this document?

14:10:08 3 A. I do not.

14:10:08 4 Q. Okay. Do you see where your name is  
14:10:12 5 listed on this form?

14:10:14 6 A. I do.

14:10:14 7 Q. Okay. Do you see where it says  
14:10:17 8 functions performed?

14:10:17 9 A. Yes.

14:10:18 10 Q. And it says assisted with investigation  
14:10:20 11 and arrest and then 710.30; do you see that?

14:10:25 12 A. Yes.

14:10:25 13 Q. What does the 710.30 refer to?

14:10:29 14 A. The statements that I documented on the  
14:10:32 15 710.30.

14:10:34 16 Q. Which officers are required to enter  
14:10:38 17 statements on a 710.30?

14:10:39 18 A. Any officer that has a statement that  
14:10:42 19 needed to be documented.

14:10:44 20 Q. Would it be expected that any of the  
14:10:46 21 assisting officers would enter their statements on  
14:10:50 22 a 710.30?

14:10:51 23 A. If they had anything pertinent that the

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14:10:54 1 defendant said, they would have to have it on a  
14:10:57 2 710.30.

14:10:58 3 Q. Okay. So what exactly does -- is a  
14:11:03 4 710.30 used for?

14:11:04 5 MS. HUGGINS: Form. You can answer.

14:11:05 6 THE WITNESS: It's used to assist with  
14:11:09 7 substantiating charges or for the District Attorney  
14:11:14 8 to see. And even the defense attorney as well to  
14:11:18 9 see what was said by their client or the defendant.  
14:11:21 10 And it could also be used to substantiate charges.  
14:11:26 11 Sometimes they say things that are incriminating.

14:11:30 12 BY MR. DAVENPORT:

14:11:30 13 Q. Okay. Would it ever be on a 710.30  
14:11:33 14 what actions the individual did for their criminal  
14:11:33 15 charges?

14:11:36 16 A. Not necessary --

14:11:36 17 MS. HUGGINS: Form. You can answer.

14:11:37 18 THE WITNESS: Not necessarily. Sometimes I  
14:11:40 19 have seen officers put in a little parenthesis it's  
14:11:43 20 not a direct quote. And then just maybe a behavior  
14:11:47 21 that was done while the defendant was saying  
14:11:50 22 something, like whether they were smacking  
14:11:53 23 themselves in the face while yelling something.

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14:11:55 1 Like that would be an example of a 710.30 that  
14:11:58 2 would have an action in parenthesis, but typically  
14:12:01 3 it's a statement that's quoted.

14:12:01 4 BY MR. DAVENPORT:

14:12:03 5 Q. Would it be expected that an officer  
14:12:05 6 who witnessed an individual throw themselves  
14:12:08 7 intentionally at a police vehicle would offer a  
14:12:12 8 statement in a 710.30?

14:12:13 9 MS. HUGGINS: Form.

14:12:13 10 THE WITNESS: No.

14:12:14 11 BY MR. DAVENPORT:

14:12:14 12 Q. No. And why is that?

14:12:15 13 A. Because it's a -- it's a question and  
14:12:16 14 answer type of thing or something that a  
14:12:18 15 spontaneous utterance that the defendant might say.

14:12:21 16 Q. Okay. So the 710.30s are more so for  
14:12:27 17 verbal statements made by the individual. I  
14:12:30 18 understand that there are instances where physical  
14:12:34 19 actions may be included, but it's mostly used for  
14:12:37 20 verbal things said by the -- the criminal, I guess,  
14:12:41 21 in this case?

14:12:41 22 A. Correct.

14:12:42 23 Q. Okay. Okay. And is it fair to say

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14:12:45 1 that no other officer offered a statement on a  
14:12:48 2 710.30?

14:12:48 3 A. Based on this case history, that's  
14:12:51 4 correct.

14:12:51 5 Q. Okay. So I'm going to show you what's  
14:13:08 6 been marked as Exhibit 20. Do you recognize that  
14:13:13 7 document?

14:13:13 8 A. Yes.

14:13:14 9 Q. And what do you recognize it to be?

14:13:16 10 A. 710.30.

14:13:17 11 Q. Okay. Do you see on there where it  
14:13:23 12 says 710.30 and 700.70?

14:13:23 13 A. Where are you?

14:13:32 14 Q. On the right-hand side towards the top.

14:13:34 15 A. The notice to defendant of intention to  
14:13:42 16 offer evidence at trial?

14:13:42 17 THE REPORTER: I'm sorry. What was that?

14:13:42 18 THE WITNESS: The notice to defendant of  
14:13:42 19 intention to offer evidence at trial.

14:13:45 20 BY MR. DAVENPORT:

14:13:45 21 Q. Do you see where after that it says  
14:13:48 22 710.30 and 700.70?

14:13:51 23 A. Yes.

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14:13:52 1 Q. What does a 700.70 refer to?

14:13:56 2 A. Criminal procedural law.

14:13:57 3 Q. What in the criminal procedural law  
14:14:00 4 does that refer to?

14:14:00 5 A. I'm not exactly sure.

14:14:02 6 Q. And what under the criminal procedural  
14:14:05 7 law does 710.30 refer to?

14:14:07 8 MS. HUGGINS: Form.

14:14:08 9 THE WITNESS: It's -- it's referring to the  
14:14:10 10 statements made by the defendant.

14:14:11 11 BY MR. DAVENPORT:

14:14:11 12 Q. Okay. Do you know if 700.70 refers to  
14:14:17 13 statements made by officers as well?

14:14:19 14 MS. HUGGINS: Form.

14:14:19 15 THE WITNESS: I can't recall at this time.

14:14:21 16 BY MR. DAVENPORT:

14:14:21 17 Q. Okay. Do you know why it's call -- you  
14:14:23 18 call it a 710.30 as opposed to a 700.70?

14:14:29 19 A. That's just how we refer to the  
14:14:32 20 defendant statements, a 710.30.

14:14:34 21 Q. Okay. Now, at what time did you become  
14:14:38 22 aware that Mr. Kistner was alleging that  
14:14:42 23 Ms. McDermott had driven her police vehicle into

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14:14:48 1 him as opposed to Mr. Kistner throwing himself at  
14:14:53 2 the police vehicle?

14:14:53 3 A. I don't remember the exact time.

14:14:56 4 Q. Was it on Schmarbeck?

14:14:58 5 A. I don't -- I don't recall anything  
14:15:01 6 Mr. -- Mr. Kistner said on Schmarbeck. If he said  
14:15:04 7 anything, I don't recall.

14:15:04 8 Q. Okay. Do you recall, did Mr. Kistner  
14:15:08 9 make his accusations while at ECMC?

14:15:11 10 A. Not that I could recall.

14:15:13 11 Q. Okay. Did Mr. Kistner ever say that  
14:15:16 12 Ms. McDermott struck him with the police vehicle as  
14:15:20 13 opposed to him throwing himself at a police  
14:15:24 14 vehicle?

14:15:24 15 A. I'm sorry. Can you say that again?

14:15:25 16 Q. Did Mr. Kistner ever say with you being  
14:15:30 17 present or you hearing that Ms. McDermott hit him  
14:15:31 18 with the police vehicle rather than Mr. Kistner  
14:15:34 19 throwing himself at the police vehicle?

14:15:34 20 A. Not that I could recall.

14:15:35 21 Q. No. Okay. Now, the statements that  
14:15:39 22 are offered on a 710.30, do they all have to be  
14:15:42 23 statements that you personally hear?

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14:15:44 1 A. Yes.

14:15:44 2 Q. Okay. Did Mr. Kistner make any  
14:15:49 3 reference to Ms. McDermott striking him with the  
14:15:52 4 police vehicle as opposed to him intentionally  
14:15:58 5 throwing himself at the police vehicle?

14:16:00 6 A. I don't recall him saying that  
14:16:01 7 specifically.

14:16:01 8 Q. Did Mr. Kistner at any time say that  
14:16:05 9 the criminal charges against him were false?

14:16:07 10 A. Not specifically.

14:16:10 11 Q. Generally?

14:16:11 12 MS. HUGGINS: Form.

14:16:13 13 THE WITNESS: If you read in my 710s what he  
14:16:16 14 said, he did say charge me criminal -- charge me  
14:16:17 15 criminally to cover yourselves. Again, as I said,  
14:16:20 16 the reference to the lily white pussies, if you  
14:16:23 17 keep telling your lies so wildly, someone might  
14:16:27 18 believe you, but that was the extent of what he was  
14:16:30 19 saying.

14:16:31 20 Like we're telling lies and charge me  
14:16:33 21 criminally to cover yourselves, but I don't recall  
14:16:36 22 him saying anything specifically about the nature  
14:16:39 23 of the events that had transpired that morning.

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14:16:42 1 Q. And were you present for those  
14:16:44 2 statements made by Mr. Kistner?

14:16:45 3 A. Yes, that's why I documented them.

14:16:47 4 Q. Okay. At any point did you ask  
14:16:49 5 Mr. Kistner what he meant by charge me criminally  
14:16:50 6 to cover yourselves?

14:16:50 7 A. I did not.

14:16:51 8 Q. At any time did you ask Mr. Kistner  
14:16:54 9 what he meant by if you keep telling your lies so  
14:16:55 10 wildly, someone might believe you?

14:16:57 11 A. I did not.

14:16:58 12 Q. Did you at any time ask him what he  
14:17:01 13 meant by your story ain't going to fly?

14:17:10 14 A. I did not.

14:17:10 15 Q. At any time did you ask him what he  
14:17:10 16 meant --

14:17:10 17 THE REPORTER: You've got to slow down,  
14:17:10 18 please. Slow down.

14:17:10 19 BY MR. DAVENPORT:

14:17:14 20 Q. At any time did you ask Mr. Kistner  
14:17:14 21 what he meant by internal affairs is going to eat  
14:17:18 22 your ass alive?

14:17:18 23 A. I did not.

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14:17:19 1 Q. At any time were you investigated by  
14:17:20 2 internal affairs for the incident on January 1st of  
14:17:24 3 2017?

14:17:24 4 A. Not that I know of.

14:17:25 5 Q. Not that you know of?

14:17:26 6 A. I -- I don't know what internal affairs  
14:17:29 7 is doing. I don't know. I've never been notified.

14:17:32 8 Q. Okay. Have you ever been investigated  
14:17:35 9 by internal affairs before?

14:17:37 10 A. No.

14:17:38 11 Q. Okay. Have you ever had to explain  
14:17:40 12 yourself to any superior officers about conduct  
14:17:44 13 while working?

14:17:45 14 A. No.

14:17:45 15 MS. HUGGINS: Form. You can answer.

14:17:55 16 BY MR. DAVENPORT:

14:17:55 17 Q. Now, have you ever been accused by  
14:18:00 18 anybody before of falsely arresting that  
14:18:03 19 individual?

14:18:04 20 A. Not that I can recall.

14:18:06 21 Q. An individual has never told you before  
14:18:10 22 that they did not believe that the criminal charges  
14:18:13 23 or the criminal arrest was valid?

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14:18:16 1 MS. HUGGINS: Form. You can answer.

14:18:19 2 THE WITNESS: In the numerous encounters  
14:18:22 3 I've had I'm sure there are people yell out that I  
14:18:26 4 didn't do it, things of that nature, but I can't  
14:18:29 5 recall anything specific at this time.

14:18:30 6 BY MR. DAVENPORT:

14:18:31 7 Q. Okay. So it's safe to say that this  
14:18:33 8 doesn't happen often?

14:18:34 9 MS. HUGGINS: Form. Just the this, yeah.

14:18:38 10 BY MR. DAVENPORT:

14:18:39 11 Q. Sure. It's safe to say that it doesn't  
14:18:41 12 happen often where somebody accuses you of falsely  
14:18:47 13 arresting them?

14:18:47 14 MS. HUGGINS: Form. You can answer.

14:18:49 15 THE WITNESS: In regards -- like can  
14:18:50 16 you -- can you clarify that, be a little more  
14:18:52 17 specific, please.

14:18:53 18 BY MR. DAVENPORT:

14:18:53 19 Q. Sure. An individual that you have  
14:18:55 20 arrested has that -- have any individuals that you  
14:18:59 21 have arrested claimed that you falsely arrested  
14:19:01 22 them?

14:19:01 23 A. Formally, I've had -- as I said before,

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